FIFTY-SEVENTH DAY

MORNING SESSION

Senate Chamber, Olympia, Monday, March 10, 2008

The Senate was called to order at 9:30 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 Benton, Brown, Hargrove, McAuliffe, McDermott, Pflug, Rasmussen and Sheldon.

The Sergeant at Arms Color Guard consisting of Pages Brian Freshley and Zach Rasmussen, presented the Colors. Pastor Dennis Magnuson of the Redmond 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

March 5, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6328, with the following amendment: 6328-S AMH ENGR H5879.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.10.569 and 1990 c 288 s 7 are each amended to read as follows:

(1) Each institution of higher education with a commissioned police force shall report to the Washington association of sheriffs and police chiefs or its successor agency, on a monthly basis, crime statistics for the Washington state uniform crime report, in the format required by the Washington association of sheriffs and police chiefs, or its successor agency. Institutions of higher education which do not have commissioned police forces shall report crime statistics through appropriate local law enforcement agencies.

(2) Each institution of higher education shall publish and distribute a report which shall be updated annually and which shall include the crime statistics as reported under subsection (1) of this section for the most recent three-year period. Upon request, the institution shall provide the report to every person who submits an application for admission to either a main or branch campus, and to each new employee at the time of employment. In its acknowledgment of receipt of the formal application for admission, the institution shall notify the applicant of the availability of such information. The information also shall be provided on an annual basis to all students and employees. Institutions with more than one campus shall provide the required information on a campus-by-campus basis.

(3)(a) Within existing resources, each institution of higher education shall ((~~provide to every new student and new employee~~)) make available to all students, faculty, and staff, and upon request to other interested persons, ((~~information which follows the general categories for safety policies and procedures outlined in this section. Such categories shall, at a minimum, include~~)) a campus safety plan that includes, at a minimum, the following:

(i) Data regarding:

(A) Campus enrollments((~~,~~));

(B) Campus nonstudent workforce profile((~~,~~)); and

(C) The number ((~~and duties~~)) of campus security personnel((~~,~~));

(ii) Policies, procedures, and programs related to:

(A) Preventing and responding to violence and other campus emergencies;

(B) Setting the weapons policy on campus;

(C) Controlled substances as defined in RCW 64.44.010; and

(D) Governing student privacy;

(iii) Information about:

(A) Sexual assault, domestic violence, and stalking, including contact information for campus and community victim advocates, information on where to view or receive campus policies on complaints, and the name and contact information of the individual or office to whom students and employees may direct complaints of sexual assault, stalking, or domestic violence; and

(B) Sexual harassment, including contact information for campus and community victim advocates, information on where to view or receive campus policies on complaints, and the name and contact information of the individual or office to whom students and employees may direct complaints of sexual harassment;

(iv) Descriptions of:

(A) Mutual assistance arrangements with state and local police((~~, sexual assault and domestic violence and policies on controlled substances~~));

(B) Methods and options that persons with disabilities or special needs have to access services and programs;

(C) Escort and transportation services that provide for individual security;

(D) Mental health and counseling services available to students, faculty, and staff;

(E) Procedures for communicating with students, faculty, staff, the public, and the media, during and following natural and nonnatural emergencies.

((~~Information~~)) (b) The campus safety plan shall include, for the most recent academic year ((~~also shall include~~)):

(i) A description of ((~~any~~)) programs and services offered by ((~~an institution's student affairs or services department, and by student government organizations regarding~~)) the institution and student-sponsored organizations that provide for crime prevention and counseling((~~, including a directory~~)). The description must include a listing of the available services ((~~and appropriate telephone numbers and physical locations of these services. In addition~~)), the service locations, and how the services may be contacted; and

(ii) For institutions maintaining student housing facilities ((~~shall include~~)), information detailing security policies and programs for those facilities.

(c)(i) Institutions with a main campus and one or more branch campuses shall provide the information on a campus-by-campus basis.

((~~In the case of~~)) (ii) Community and technical colleges((~~, colleges~~)) shall provide such information ((~~to~~)) for the main campuses only, and shall provide reasonable alternative information ((~~at~~)) for any off-campus centers and ((~~other~~)) affiliated college sites enrolling ((~~less~~)) fewer than one hundred students.

(4)(a) Each institution shall enter into memoranda of understanding that set forth responsibilities for the various local jurisdictions in the event of a campus emergency.

(b) Each institution shall enter into mutual aid agreements with local jurisdictions regarding the shared use of equipment and technology in the event of a campus emergency.

(c) Memoranda of understanding and mutual aid agreements shall be updated and included in campus safety plans.

(5)(a) Each institution shall establish a task force ((~~which shall annually~~)) that examines campus security and safety issues at least annually. ((~~The task force shall review the report published and distributed pursuant to this section in order to ensure the accuracy and effectiveness of the report, and make any suggestions for improvement. This~~)) Each task force shall include representation from the institution's administration, faculty, staff, recognized student organizations, and police or security organization.

(b) Each task force shall review the campus safety plan published and distributed under this section for its respective institution, in order to ensure its accuracy and effectiveness and to make any suggestions for improvement.

(6) The president of each institution shall designate a specific individual responsible for monitoring and coordinating the institution's compliance with this section and shall ensure that contact information for this individual is made available to all students, faculty, and staff.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) Each institution of higher education shall take the following actions:

(a) By October 30, 2008, submit a self-study assessing its ability to facilitate the safety of students, faculty, staff, administration, and visitors on each campus, including an evaluation of the effectiveness of these measures, an assessment of the institution's ability to disseminate information in a timely and efficient manner to students, faculty, and staff, an evaluation of the institution's ability to provide an appropriate level of mental health services, and an action plan and timelines describing plans to maximize program effectiveness for the next two biennia. Four-year institutions shall submit their studies to the higher education coordinating board. Community and technical colleges shall submit their studies to the state board for community and technical colleges.

(b) By October 30th of each even-numbered year, beginning in 2010, each institution shall submit an update to its plan, including an assessment of the results of activities undertaken under any previous plan to address unmet safety issues, and additional activities, or modifications of current activities, to be undertaken to address remaining safety issues at the institution.

(2) The higher education coordinating board and the state board for community and technical colleges shall report biennially, beginning December 31, 2010, to the governor and the higher education committees of the house of representatives and the senate on:

(a) The efforts of each institution and the extent to which it has complied with RCW 28B.10.569 and subsection (1)(b) of this section; and

(b) Recommendations on measures to assist institutions to ensure and enhance campus safety.

NEW SECTION. **Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Shin moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6328.

Senator Shin spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senators Benton, Holmquist and Pflug were excused.

MOTION

On motion of Senator Regala, Senators Kauffman, McAuliffe, McDermott and Sheldon were excused.

The President declared the question before the Senate to be the motion by Senator Shin that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6328.

The motion by Senator Shin carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6328 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6328, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6328, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 3; Excused, 5.

Voting yea: Senators Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 41

Absent: Senators Brown, Hargrove and Rasmussen - 3

Excused: Senators Benton, McAuliffe, McDermott, Pflug and Sheldon - 5

SUBSTITUTE SENATE BILL NO. 6328, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6381, with the following amendment: 6381 AMH IFCP H5840.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 19.146 RCW to read as follows:

(1) A mortgage broker has a fiduciary relationship with the borrower. For the purposes of this section, the fiduciary duty means that the mortgage broker has the following duties:

(a) A mortgage broker must act in the borrower's best interest and in the utmost good faith toward the borrower, and shall disclose any and all interests to the borrower including, but not limited to, interests that may lie with the lender that are used to facilitate a borrower's request. A mortgage broker shall not accept, provide, or charge any undisclosed compensation or realize any undisclosed remuneration that inures to the benefit of the mortgage broker on an expenditure made for the borrower;

(b) A mortgage broker must carry out all lawful instructions provided by the borrower;

(c) A mortgage broker must disclose to the borrower all material facts of which the mortgage broker has knowledge that might reasonably affect the borrower's rights, interests, or ability to receive the borrower's intended benefit from the residential mortgage loan;

(d) A mortgage broker must use reasonable care in performing duties; and

(e) A mortgage broker must provide an accounting to the borrower for all money and property received from the borrower.

(2) A mortgage broker may contract for or collect a fee for services rendered if the fee is disclosed to the borrower in advance of the provision of those services.

(3) The fiduciary duty in this section does not require a mortgage broker to offer or obtain access to loan products and services other than those that are available to the mortgage broker at the time of the transaction.

(4) The director must adopt rules to implement this section."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Weinstein moved that the Senate concur in the House amendment(s) to Senate Bill No. 6381.

Senator Weinstein spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senators Brown, Hargrove and Rasmussen were excused.

The President declared the question before the Senate to be the motion by Senator Weinstein that the Senate concur in the House amendment(s) to Senate Bill No. 6381.

The motion by Senator Weinstein carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6381 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6381, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6381, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 9; Absent, 0; Excused, 5.

Voting yea: Senators Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Prentice, Pridemore, Regala, Rockefeller, Sheldon, Shin, Spanel, Swecker, Tom and Weinstein - 35

Voting nay: Senators Benton, Hewitt, Holmquist, Honeyford, Parlette, Roach, Schoesler, Stevens and Zarelli - 9

Excused: Senators Brown, McAuliffe, McDermott, Pflug and Rasmussen - 5

SENATE BILL NO. 6381, 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.

PARLIAMENTARY INQUIRY

Senator Benton: "Are we working out of both books, the book left over from Saturday and the book from this morning or does fifty-seventh day book replace all previous versions?"

REPLY BY THE PRESIDENT

President Owen: "You have new books today and they're working off the green and it is noted on the calendar."

Senator Benton: "That replaces all previous....."

President Owen: "Yes, all previous books are replaced."

Senator Benton: "We've had some difficulty finding these bills this morning in these books so, thank you."

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6297, with the following amendment: 6297-S AMH APP H5850.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that an elected county prosecuting attorney functions as both a state officer in pursuing criminal cases on behalf of the state of Washington, and as a county officer who acts as civil counsel for the county, and provides services to school districts and lesser taxing districts by statute.

The elected prosecuting attorney's dual role as a state officer and a county officer is reflected in various provisions of the state Constitution and within state statute.

The legislature finds that the responsibilities and decisions required of the elected prosecuting attorney are essentially the same in every county within Washington state, from a decision to seek the death penalty in an aggravated murder case, to the decision not to prosecute but refer an offender to drug court; from a decision to pursue child rape charges based solely upon the testimony of the child, to a decision to divert juvenile offenders out of the justice system. Therefore, the legislature finds that elected prosecuting attorneys need to exercise the same level of skill and expertise in the least populous county as in the most populous county.

The legislature finds that the salary of the elected county prosecuting attorney should be tied to that of a superior court judge. This furthers the state's interests and responsibilities under the state Constitution, and is consistent with the current practice of several counties in Washington state, the practices of several other states, and the national district attorneys' association national standards.

Sec. 2. RCW 36.17.020 and 2001 c 73 s 3 are each amended to read as follows:

The county legislative authority of each county or a county commissioner or councilmember salary commission which conforms with RCW 36.17.024 is authorized to establish the salaries of the elected officials of the county. ((~~One-half of the salary of each prosecuting attorney shall be paid by the state.~~)) The state and county shall contribute to the costs of the salary of the elected prosecuting attorney as set forth in subsection (11) of this section. The annual salary of a county elected official shall not be less than the following:

(1) In each county with a population of one million or more: Auditor, clerk, treasurer, sheriff, members of the county legislative authority, and coroner, eighteen thousand dollars; and assessor, nineteen thousand dollars((~~, and prosecuting attorney, thirty thousand three hundred dollars~~));

(2) In each county with a population of from two hundred ten thousand to less than one million: Auditor, seventeen thousand six hundred dollars; clerk, seventeen thousand six hundred dollars; treasurer, seventeen thousand six hundred dollars; sheriff, nineteen thousand five hundred dollars; assessor, seventeen thousand six hundred dollars; ((~~prosecuting attorney, twenty-four thousand eight hundred dollars;~~)) members

of the county legislative authority, nineteen thousand five hundred dollars; and coroner, seventeen thousand six hundred dollars;

(3) In each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand: Auditor, sixteen thousand dollars; clerk, sixteen thousand dollars; treasurer, sixteen thousand dollars; sheriff, seventeen thousand six hundred dollars; assessor, sixteen thousand dollars; ((~~prosecuting attorney, twenty-four thousand eight hundred dollars;~~)) members of the county legislative authority, seventeen thousand six hundred dollars; and coroner, sixteen thousand dollars;

(4) In each county with a population of from seventy thousand to less than one hundred twenty-five thousand: Auditor, fourteen thousand nine hundred dollars; clerk, fourteen thousand nine hundred dollars; treasurer, fourteen thousand nine hundred dollars; assessor, fourteen thousand nine hundred dollars; sheriff, fourteen thousand nine hundred dollars; ((~~prosecuting attorney, twenty-three thousand seven hundred dollars;~~)) members of the county legislative authority, fourteen thousand nine hundred dollars; and coroner, fourteen thousand nine hundred dollars;

(5) In each county with a population of from forty thousand to less than seventy thousand: Auditor, thirteen thousand eight hundred dollars; clerk, thirteen thousand eight hundred dollars; treasurer, thirteen thousand eight hundred dollars; assessor, thirteen thousand eight hundred dollars; sheriff, thirteen thousand eight hundred dollars; ((~~prosecuting attorney, twenty-three thousand seven hundred dollars;~~)) members of the county legislative authority, thirteen thousand eight hundred dollars; and coroner, thirteen thousand eight hundred dollars;

(6) In each county with a population of from eighteen thousand to less than forty thousand: Auditor, twelve thousand one hundred dollars; clerk, twelve thousand one hundred dollars; treasurer, twelve thousand one hundred dollars; sheriff, twelve thousand one hundred dollars; assessor, twelve thousand one hundred dollars; ((~~prosecuting attorney in such a county in which there is no state university or college, fourteen thousand three hundred dollars; in such a county in which there is a state university or college, sixteen thousand five hundred dollars;~~)) and members of the county legislative authority, eleven thousand dollars;

(7) In each county with a population of from twelve thousand to less than eighteen thousand: Auditor, ten thousand one hundred dollars; clerk, ten thousand one hundred dollars; treasurer, ten thousand one hundred dollars; assessor, ten thousand one hundred dollars; sheriff, eleven thousand two hundred dollars; ((~~prosecuting attorney, thirteen thousand two hundred dollars;~~)) and members of the county legislative authority, nine thousand four hundred dollars;

(8) In each county with a population of from eight thousand to less than twelve thousand: Auditor, ten thousand one hundred dollars; clerk, ten thousand one hundred dollars; treasurer, ten thousand one hundred dollars; assessor, ten thousand one hundred dollars; sheriff, eleven thousand two hundred dollars; ((~~prosecuting attorney, nine thousand nine hundred dollars;~~)) and members of the county legislative authority, seven thousand dollars;

(9) In each county with a population of from five thousand to less than eight thousand: Auditor, nine thousand one hundred dollars; clerk, nine thousand one hundred dollars; treasurer, nine thousand one hundred dollars; assessor, nine thousand one hundred dollars; sheriff, ten thousand five hundred dollars; ((~~prosecuting attorney, nine thousand nine hundred dollars;~~)) and members of the county legislative authority, six thousand five hundred dollars;

(10) In each other county: Auditor, nine thousand one hundred dollars; clerk, nine thousand one hundred dollars; treasurer, nine thousand one hundred dollars; sheriff, ten thousand five hundred dollars; assessor, nine thousand one hundred dollars; ((~~prosecuting attorney, nine thousand nine hundred dollars;~~)) and members of the county legislative authority, six thousand five hundred dollars;

(11) The state of Washington shall contribute an amount equal to one-half the salary of a superior court judge towards the salary of the elected prosecuting attorney. Upon receipt of the state contribution, a county shall continue to contribute towards the salary of the elected prosecuting attorney in an amount that equals or exceeds that contributed by the county in 2008.

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

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6297.

Senator Prentice spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senator Weinstein was excused.

The President declared the question before the Senate to be the motion by Senator Prentice that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6297.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6297 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6297, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6297, as amended by the House, 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, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Zarelli - 44

Excused: Senators Brown, McAuliffe, McDermott, Pflug and Weinstein - 5

SUBSTITUTE SENATE BILL NO. 6297, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6310, with the following amendment: 6310 AMH DICK MERE 026

On page 1, beginning on line 1, strike all of section 1

Renumber remaining sections consecutively and correct any internal references accordingly.

On page 21, beginning on line 14, strike all of section 15 and insert the following:

"NEW SECTION. **Sec. 15.** RCW 10.77.800 (Evaluation of chapter 297, Laws of 1998--Recidivism, competency

restoration, information sharing) and 1998 c 297 s 54 are each repealed."

Renumber remaining sections consecutively and correct any internal references accordingly, and correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Senate Bill No. 6310.

Senator Hargrove spoke in favor of the 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 Senate Bill No. 6310.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6310 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6310, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6310, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

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

Absent: Senator Brandland - 1

Excused: Senators Brown, McAuliffe, McDermott, Pflug and Weinstein - 5

SENATE BILL NO. 6310, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6400, with the following amendment: 6400-S AMH HS MORI 093

On page 1, beginning on line 6, after "have" strike all material though "believing" on line 14 and insert "the need to develop pro-social behaviors"
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Carrell moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6400.

Senator Carrell spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Carrell that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6400.

The motion by Senator Carrell carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6400 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6400, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6400, as amended by the House, 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, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Zarelli - 44

Excused: Senators Brown, McAuliffe, McDermott, Pflug and Weinstein - 5

SUBSTITUTE SENATE BILL NO. 6400, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6442, with the following amendment: 6442-S.E AMH JUDI TANG 096

On page 3, line 37, after "counties;" insert "and"

On page 4, beginning on line 1, after "cities" strike all material through "experience" on line 8
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6442.

Senator Kline spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6442.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6442 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6442, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6442, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller,

Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Brown, McAuliffe and Pflug - 3

ENGROSSED SUBSTITUTE SENATE BILL NO. 6442, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6447, with the following amendment: 6447 AMH ENGR H5865.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** In order to support the families of military personnel serving in military conflicts, and to assure that these families are able to spend time together after being notified of an impending call or order to active duty and before deployment and during a military member's leave from deployment, the legislature hereby creates the military family leave act.

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

(1) "Department" and "spouse" have the same meanings as in RCW 49.78.020.

(2) "Employee" means a person who performs service for hire for an employer, for an average of twenty or more hours per week, and includes all individuals employed at any site owned or operated by an employer, but does not include an independent contractor.

(3) "Employer" means: (a) Any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state; (b) the state, state institutions, and state agencies; and (c) any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision.

(4) "Period of military conflict" means a period of war declared by the United States Congress, declared by executive order of the president, or in which a member of a reserve component of the armed forces is ordered to active duty pursuant to either sections 12301 and 12302 of Title 10 of the United States Code or Title 32 of the United States Code.

NEW SECTION. **Sec. 3.** (1) During a period of military conflict, an employee who is the spouse of a member of the armed forces of the United States, national guard, or reserves who has been notified of an impending call or order to active duty or has been deployed is entitled to a total of fifteen days of unpaid leave per deployment after the military spouse has been notified of an impending call or order to active duty and before deployment or when the military spouse is on leave from deployment.

(2) An employee who takes leave under this chapter is entitled: (a) To be restored to a position of employment in the same manner as an employee entitled to leave under chapter 49.78 RCW is restored to a position of employment, as specified in RCW 49.78.280; and (b) to continue benefits in the same manner as an employee entitled to leave under chapter 49.78 RCW continues benefits, as specified in RCW 49.78.290.

(3) An employee who seeks to take leave under this chapter must provide the employer with notice, within five business days of receiving official notice of an impending call or order to active duty or of a leave from deployment, of the employee's intention to take leave under this chapter.

(4) An employer from which an employee seeks to take leave or takes leave under this chapter shall not engage in prohibited acts as specified in RCW 49.78.300.

(5) An employee who takes leave under this chapter may elect to substitute any of the accrued leave to which the employee may be entitled for any part of the leave provided under this chapter.

(6) The department shall administer the provisions of this chapter, and may adopt rules as necessary to implement this chapter.

(7) This chapter shall be enforced as provided in chapter 49.78
RCW.

NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act constitute a new chapter in Title 49 RCW.

Sec. 5. RCW 38.40.060 and 2001 c 71 s 1 are each amended to read as follows:

Every officer and employee of the state or of any county, city, or other political subdivision thereof who is a member of the Washington national guard or of the army, navy, air force, coast guard, or marine corps reserve of the United States, or of any organized reserve or armed forces of the United States shall be entitled to and shall be granted military leave of absence from such employment for a period not exceeding ((~~fifteen~~)) twenty-one days during each year beginning October 1st and ending the following September 30th. Such leave shall be granted in order that the person may report for active duty, when called, or take part in active training duty in such manner and at such time as he or she may be ordered to active duty or active training duty. Such military leave of absence shall be in addition to any vacation or sick leave to which the officer or employee might otherwise be entitled, and shall not involve any loss of efficiency rating, privileges, or pay. During the period of military leave, the officer or employee shall receive from the state, or the county, city, or other political subdivision, his or her normal pay."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hobbs moved that the Senate concur in the House amendment(s) to Senate Bill No. 6447.

Senator Hobbs spoke in favor of the 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 Senate Bill No. 6447.

The motion by Senator Hobbs carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6447 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6447, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6447, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators McAuliffe and Pflug - 2

SENATE BILL NO. 6447, as amended by the House, having received the constitutional majority, was declared

passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6560, with the following amendment: 6560-S.E AMH SGTA TAYT 217

On page 3, line 18, after "dollars" insert "per calendar month"

On page 3, line 19, after "dollars" insert "per calendar month"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6560.

Senator Rockefeller spoke in favor of the 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 Substitute Senate Bill No. 6560.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6560 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6560, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6560, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators McAuliffe and Pflug - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 6560, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6580, with the following amendment: 6580-S.E AMH ENGR H5948.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature recognizes that the implications of a changed climate will affect the people, institutions, and economies of Washington. The legislature also recognizes that it is in the public interest to reduce the state's dependence upon foreign sources of carbon fuels that do not promote energy independence or the economic strength of the state. The legislature finds that the state, including its counties, cities, and residents, must engage in activities that reduce greenhouse gas emissions and dependence upon foreign oil.

(2) The legislature further recognizes that: (a) Patterns of land use development influence transportation-related greenhouse gas emissions and the need for foreign oil; (b) fossil fuel-based transportation is the largest source of greenhouse gas emissions in Washington; and (c) the state and its residents will not achieve emission reductions established in RCW 80.80.020 without a significant decrease in transportation emissions.

(3) The legislature, therefore, finds that it is in the public interest of the state to provide appropriate legal authority, where required, and to aid in the development of policies, practices, and methodologies that may assist counties and cities in addressing challenges associated with greenhouse gas emissions and our state's dependence upon foreign oil.

NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW to read as follows:

(1) The department must develop and provide to counties and cities a range of advisory climate change response methodologies, a computer modeling program, and estimates of greenhouse gas emission reductions resulting from specific measures. The advisory methodologies, computer modeling program, and estimates must reflect regional and local variations and the diversity of counties and cities planning under RCW 36.70A.040. Advisory methodologies, the computer modeling program, estimates, and guidance developed under this section must be consistent with recommendations developed by the advisory policy committee established in section 4 of this act.

(2) The department, in complying with this section, must work with the department of transportation on reductions of vehicle miles traveled through efforts associated with, and independent of, the process directed by RCW 47.01.--- (section 8, chapter . . . (E2SHB 2815)), Laws of 2008.

(3) The department must complete and make available the advisory climate change response methodologies, computer program, and estimates required by this section by December 1, 2009. The advisory climate change response methodologies, computer program, and estimates must be updated two years before each completion date established in RCW 36.70A.130(4)(a).

(4) This section expires January 1, 2011.

NEW SECTION. **Sec. 3.** (1) A local government global warming mitigation and adaptation program is established. The program must be administered by the department of community, trade, and economic development and must conclude by June 30, 2010. The department must, through a competitive process, select three or fewer counties and six or fewer cities for the program. Counties selected must reflect a range of opportunities to address climate change in urbanizing, resource, or agricultural areas. Cities selected must reflect a range of sizes, geographic locations, and variations between those that are highly urbanized and those that are less so that have more residential dwellings than employment positions.

(2) The program is established to assist the selected counties and cities that: (a) Are addressing climate change through their land use and transportation planning processes; and (b) aspire to address climate change through their land use and transportation planning processes, but lack necessary resources to do so. The department of community, trade, and economic development may fund proposals to inventory and mitigate global warming emissions, or adapt to the adverse impacts of global warming, using criteria it develops to accomplish the objectives of this section and sections 2 and 4 of this act.

(3) The department of community, trade, and economic development must provide grants and technical assistance to aid the selected counties and cities in their efforts to anticipate, mitigate, and adapt to global warming and its associated problems. The department, in providing grants and technical assistance, must ensure that grants and assistance are awarded to

counties and cities meeting the criteria established in subsection (2)(a) and (b) of this section.

(4) The department of community, trade, and economic development must provide a report of program findings and recommendations to the governor and the appropriate committees of the house of representatives and the senate by January 1, 2011. The report must also consider the positive and negative impacts to affordable housing, employment, transportation costs, and economic development that result from addressing the impacts of climate change at the local level.

(5) This section expires January 1, 2011.

NEW SECTION. **Sec. 4.** (1)(a) With the use of funds provided by specific appropriation, the department must prepare a report that includes:

(i) Descriptions of actions counties and cities are taking to address climate change issues. The department must use readily available information when completing the requirements of this subsection (1)(a)(i);

(ii) Recommendations of changes, if any, to chapter 36.70A RCW and other relevant statutes that would enable state and local governments to address climate change issues and the need to reduce dependence upon foreign oil through land use and transportation planning processes;

(iii) Descriptions of existing and potential computer modeling and other analytic and assessment tools that could be used by counties and cities in addressing their proprietary and regulatory activities to reduce greenhouse gas emissions and/or dependence upon foreign oil;

(iv) Considerations of positive and negative impacts to affordable housing, employment, transportation costs, and economic development that result from addressing the impacts of climate change at the local level;

(v) Assessments of state and local resources, financial and otherwise, needed to fully implement recommendations resulting from and associated with (a)(ii) and (iii) of this subsection; and

(vi) Recommendations for additional funding to implement the recommendations resulting from (a)(ii) of this subsection.

(b) The department must submit the report required by this section to the governor and the appropriate committees of the house of representatives and the senate by December 1, 2008.

(2)(a) In preparing the report required by this section, the department must convene an advisory policy committee, with members as provided in this subsection.

(i) The speaker of the house of representatives must appoint one member from each of the two largest caucuses of the house of representatives.

(ii) The president of the senate must appoint one member from each of the two largest caucuses of the senate.

(iii) Three elected official members representing counties and five elected official members representing cities. Members appointed under this subsection (2)(a)(iii) must represent each of the jurisdictional areas of growth management hearings boards and must be appointed by state associations representing counties and cities.

(iv) One member representing tribal governments, appointed by the governor.

(b) Recommendations produced by the department under this section must be approved by a majority of the voting members of the advisory policy committee.

(c) The advisory policy committee must have the following nonvoting ex officio members:

(i) One member representing the office of the governor;

(ii) One member representing an association of builders;

(iii) One member representing an association of real estate professionals;

(iv) One member representing an association of local government planners;

(v) One member representing an association of agricultural interests;

(vi) One member representing a nonprofit entity with experience in growth management and land use planning issues;

(vii) One member representing a statewide business association;

(viii) One member representing a nonprofit entity with experience in climate change issues;

(ix) One member representing a nonprofit entity with experience in mobility and transportation issues;

(x) One member representing an association of office and industrial properties;

(xi) One member representing an association of architects; and

(xii) One member representing an association of commercial forestry interests.

(d)(i) The department, in preparing the report and presenting information and recommendations to the advisory policy committee, must convene a technical support team, with members as provided in this subsection.

(A) The department of ecology must appoint one member representing the department of ecology.

(B) The department must appoint one member representing the department.

(C) The department of transportation must appoint one member representing the department of transportation.

(ii) The department, in complying with this subsection (2)(d), must consult with the professional staffs of counties and cities or their state associations, and regional transportation planning organizations and must solicit assistance from these staffs in developing materials and options for consideration by the advisory policy committee.

(3) Nominations for organizations represented in subsection (2) of this section must be submitted to the department by April 15, 2008.

(4) For purposes of this section, "department" means the department of community, trade, and economic development.

(5) This section expires December 31, 2008.

Sec. 5. RCW 36.70A.280 and 2003 c 332 s 2 are each amended to read as follows:

(1) A growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes a board to hear petitions alleging noncompliance with section 3 of this act; or

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, a board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by a board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by a board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as a "board adjusted population projection". None of these changes shall affect the official state and county population

forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

NEW SECTION. **Sec. 6.** This act is not intended to amend or affect chapter 353, Laws of 2007.

NEW SECTION. **Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec. 8.** If specific funding for the purposes of section 2 of this act, referencing section 2 of this act by bill or chapter number and section number, is not provided by June 30, 2008, in the omnibus appropriations act, section 2 of this act is null and void.

NEW SECTION. **Sec. 9.** If specific funding for the purposes of section 3 of this act, referencing section 3 of this act by bill or chapter number and section number, is not provided by June 30, 2008, in the omnibus appropriations act, section 3 of this act is null and void.

NEW SECTION. **Sec. 10.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Marr moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6580.

Senator Marr spoke in favor of the motion.

Senator Honeyford spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Marr that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6580.

The motion by Senator Marr carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6580 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6580, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6580, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Swecker, Tom and Weinstein - 30

Voting nay: Senators Benton, Brandland, Carrell, Delvin, Hargrove, Hatfield, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens and Zarelli - 18

Excused: Senator Pflug - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 6580, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6596, with the following amendment: 6596-S AMH CHAB MACB 043

On page 4, after line 28, insert the following:

"(3) The board shall report annually starting December 1, 2008 to the governor and the legislature with findings on (i) current research and best practices related to risk assessment, treatment, and supervision of sex offenders; (ii) community education regarding sex offenses and offenders; (iii) prevention of sex offenses; (iv) sex offender management; (v) the performance of sex offender prevention and response systems; and (vii) any other activities performed by the board in the prior 12 months in the furtherance of the purposes of this act."

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6596.

Senator Hargrove spoke in favor of the 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. 6596.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6596 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6596, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6596, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Brown - 1

Excused: Senator Pflug - 1

SUBSTITUTE SENATE BILL NO. 6596, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6439, with the following amendment: 6439-S AMH HCW H5786.1.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.84.010 and 1991 c 222 s 1 are each amended to read as follows:

It is the intent and purpose of this chapter to protect the public by the certification and registration of practitioners of radiological technology. By promoting high standards of

professional performance, by requiring professional accountability, and by credentialing those persons who seek to provide radiological technology under the title of ((~~radiological~~)) radiologic technologists, and by regulating all persons utilizing ionizing radiation on human beings this chapter identifies those practitioners who have achieved a particular level of competency. Nothing in this chapter shall be construed to require that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided by a person certified under this chapter.

The legislature finds and declares that this chapter conforms to the guidelines, terms, and definitions for the credentialing of health or health-related professions specified under chapter 18.120 RCW.

Sec. 2. RCW 18.84.020 and 2000 c 93 s 42 are each amended to read as follows:

((~~Unless the context clearly requires otherwise,~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of health.

(2) "Secretary" means the secretary of health.

(3) "Licensed practitioner" means any licensed health care practitioner performing services within the person's authorized scope of practice.

(4) "Radiologic technologist" means an individual certified under this chapter, other than a licensed practitioner, who practices radiologic technology as a:

(a) Diagnostic radiologic technologist, who is a person who actually handles X-ray equipment in the process of applying radiation on a human being for diagnostic purposes at the direction of a licensed practitioner, this includes parenteral procedures related to radiologic technology when performed under the direct supervision of a physician licensed under chapter 18.71 or 18.57 RCW; ((~~or~~))

(b) Therapeutic radiologic technologist, who is a person who uses radiation-generating equipment for therapeutic purposes on human subjects at the direction of a licensed practitioner, this includes parenteral procedures related to radiologic technology when performed under the direct supervision of a physician licensed under chapter 18.71 or 18.57 RCW; ((~~or~~))

(c) Nuclear medicine technologist, who is a person who prepares radiopharmaceuticals and administers them to human beings for diagnostic and therapeutic purposes and who performs in vivo and in vitro detection and measurement of radioactivity for medical purposes at the direction of a licensed practitioner; or

(d) Radiologist assistant, who is an advanced-level certified diagnostic radiologic technologist who assists radiologists by performing advanced diagnostic imaging procedures as determined by rule under levels of supervision defined by the secretary, this includes but is not limited to enteral and parenteral procedures when performed under the direction of the supervising radiologist, and that these procedures may include injecting diagnostic agents to sites other than intravenous, performing diagnostic aspirations and localizations, and assisting radiologists with other invasive procedures.

(5) "Approved school of radiologic technology" means a school of radiologic technology or radiologist assistant program approved by the ((~~council on medical education of the American medical association~~)) secretary or a school found to maintain the equivalent of such a course of study as determined by the department. Such school may be operated by a medical or educational institution, and for the purpose of providing the requisite clinical experience, shall be affiliated with one or more general hospitals.

(6) "Approved radiologist assistant program" means a school approved by the secretary. The secretary may recognize other organizations that establish standards for radiologist assistant programs and designate schools that meet the organization's standards as approved.

(7) "Radiologic technology" means the use of ionizing radiation upon a human being for diagnostic or therapeutic purposes.

((~~(7)~~)) (8) "Radiologist" means a physician certified by the American board of radiology or the American osteopathic board of radiology.

((~~(8)~~)) (9) "Registered X-ray technician" means a person who is registered with the department, and who applies ionizing radiation at the direction of a licensed practitioner and who does not perform parenteral procedures.

Sec. 3. RCW 18.84.030 and 1991 c 222 s 3 are each amended to read as follows:

No person may practice radiologic technology without being registered or certified under this chapter, unless that person is a licensed practitioner as defined in RCW 18.84.020(3). A person represents himself or herself to the public as a certified ((~~radiological~~)) radiologic technologist when that person adopts or uses a title or description of services that incorporates one or more of the following items or designations:

(1) Certified radiologic technologist or CRT, for persons so certified under this chapter;

(2) Certified radiologic therapy technologist, CRTT, or CRT, for persons certified in the therapeutic field;

(3) Certified radiologic diagnostic technologist, CRDT, or CRT, for persons certified in the diagnostic field; ((~~or~~))

(4) Certified nuclear medicine technologist, CNMT, or CRT, for persons certified as nuclear medicine technologists; or

(5) Certified radiologist assistant or CRA for persons certified as radiologist assistants.

Sec. 4. RCW 18.84.040 and 1994 sp.s. c 9 s 506 are each amended to read as follows:

(1) In addition to any other authority provided by law, the secretary may:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Set all registration, certification, and renewal fees in accordance with RCW 43.70.250;

(c) Establish forms and procedures necessary to administer this chapter;

(d) Evaluate and designate those schools from which graduation will be accepted as proof of an applicant's eligibility to receive a certificate;

(e) Determine whether alternative methods of training are equivalent to formal education, and to establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to receive a certificate;

(f) Issue a certificate to any applicant who has met the education, training, examination, and conduct requirements for certification; and

(g) Issue a registration to an applicant who meets the requirement for a registration.

(2) The secretary may hire clerical, administrative, and investigative staff as needed to implement this chapter.

(3) The uniform disciplinary act, chapter 18.130 RCW, governs the issuance and denial of registrations and certifications, unregistered and uncertified practice, and the discipline of registrants and certificants under this chapter. The secretary is the disciplining authority under this chapter.

(4) The secretary may appoint ad hoc members of the profession to serve in an ad hoc advisory capacity to the secretary in carrying out this chapter. The members will serve for designated times and provide advice on matters specifically identified and requested by the secretary. The members shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses under RCW 43.03.040 and 43.03.060.

Sec. 5. RCW 18.84.080 and 1991 c 3 s 209 are each amended to read as follows:

(1) The secretary shall issue a certificate to any applicant who demonstrates to the secretary's satisfaction, that the following requirements have been met to practice as:

(a) A diagnostic radiologic technologist, therapeutic radiologic technologist, or nuclear medicine technologist:

(i) Graduation from an approved school or successful completion of alternate training that meets the criteria established by the secretary; ((~~and~~

~~(b)~~)) (ii) Satisfactory completion of a radiologic technologist examination approved by the secretary; and

(iii) Good moral character; or

(b) A radiologist assistant:

(i) Satisfactory completion of an approved radiologist assistant program;

(ii) Satisfactory completion of a radiologist assistant examination approved by the secretary; and

(iii) Good moral character.

(2) Applicants shall be subject to the grounds for denial or issuance of a conditional license under chapter 18.130 RCW.

(3) The secretary shall establish by rule what constitutes adequate proof of meeting the requirements for certification and for designation of certification in a particular field of radiologic technology.

NEW SECTION. **Sec. 6.** A new section is added to chapter 18.84 RCW to read as follows:

It is unprofessional conduct under chapter 18.130 RCW for any person registered or certified under this chapter to interpret images, make diagnoses, prescribe medications or therapies, or perform other procedures that may be prohibited by rule."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Spanel moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6439.

Senator Spanel spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senator Brown was excused.

The President declared the question before the Senate to be the motion by Senator Spanel that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6439.

The motion by Senator Spanel carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6439 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6439, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6439, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 5; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 42

Voting nay: Senators Benton, Holmquist, Honeyford, Roach and Stevens - 5

Excused: Senators Brown and Pflug - 2

SUBSTITUTE SENATE BILL NO. 6439, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6570, with the following amendment: 6570-S.E AMH SGTA REIL 032

On page 2, line 13, after "(5)" strike all material through "42.52.160" on line 15 and insert the following: "A state employee is presumed not to be in violation of RCW 42.52.070 or 42.52.160 if the employee or the employee's spouse or child complies with this section"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Fairley moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6570.

Senator Fairley spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Fairley that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6570.

The motion by Senator Fairley carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6570 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6570, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6570, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator Hargrove - 1

Excused: Senators Brown and Pflug - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 6570, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6606, with the following amendment: 6606-S.E AMH ENGR H5949.E

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) "Board" means the home inspector advisory licensing board.

(2) "Department" means the department of licensing.

(3) "Director" means the director of the department of licensing.

(4) "Entity" or "entities" means educational groups or organizations, national organizations or associations, or a national test organization.

(5) "Home inspection" means a professional examination of the current condition of a house.

(6) "Home inspector" means a person who carries out a noninvasive examination of the condition of a home, often in connection with the sale of that home, using special training and education to carry out the inspection.

(7) "Report" means a written report prepared and issued after a home inspection.

(8) "Wood destroying organism" means insects or fungi that consume, excavate, develop in, or otherwise modify the integrity of wood or wood products. "Wood destroying organism" includes but is not limited to carpenter ants, moisture ants, subterranean termites, dampwood termites, beetles in the family Anobiidae, and wood decay fungi, known as wood rot.

NEW SECTION. **Sec. 2.** LICENSURE REQUIRED. (1) Beginning September 1, 2009, a person shall not engage in or conduct, or advertise or hold himself or herself out as engaging in or conducting, the business of or acting in the capacity of a home inspector within this state without first obtaining a license as provided in this chapter.

(2) Any person performing the duties of a home inspector on the effective date of this act has until July 1, 2010, to meet the licensing requirements of this chapter. However, if a person performing the duties of a home inspector on the effective date of this act has proof that he or she has worked as a home inspector for at least two years and has conducted at least one hundred home inspections, he or she may apply to the board before September 1, 2009, for licensure without meeting the instruction and training requirements of this chapter.

(3) The director may begin issuing licenses under this section beginning on July 1, 2009.

NEW SECTION. **Sec. 3.** DUTIES OF A LICENSED HOME INSPECTOR. A person licensed under this chapter is responsible for performing a visual and noninvasive inspection of the following readily accessible systems and components of a home and reporting on the general condition of those systems and components at the time of the inspection in his or her written report: The roof, foundation, exterior, heating system, air-conditioning system, structure, plumbing and electrical systems, and other aspects of the home as may be identified by the board. The inspection must include looking for certain fire and safety hazards as defined by the board. The standards of practice to be developed by the board will be used as the minimum standards for an inspection. The duties of the home inspector with regard to wood destroying organisms are provided in section 19 of this act.

NEW SECTION. **Sec. 4.** HOME INSPECTOR ADVISORY LICENSING BOARD. (1) The state home inspector advisory licensing board is created. The board consists of seven members appointed by the governor, who shall advise the director concerning the administration of this chapter. Of the appointments to this board, six must be actively engaged as home inspectors immediately prior to their appointment to the board, and one must be currently teaching in a home inspector education program. Insofar as possible, the composition of the appointed home inspector members of the board must be generally representative of the geographic distribution of home inspectors licensed under this chapter. No more than two board members may be members of a particular national home inspector association or organization.

(2) A home inspector must have the following qualifications to be appointed to the board:

(a) Actively engaged as a home inspector in the state of Washington for five years;

(b) Licensed as a home inspector under this chapter, except for initial appointments; and

(c) Performed a minimum of five hundred home inspections in the state of Washington.

(3) Members of the board are appointed for three-year terms. Terms must be staggered so that not more than two appointments are scheduled to be made in any calendar year. Members hold office until the expiration of the terms for which they were appointed. The governor may remove a board member for just cause. The governor may appoint a new member to fill a vacancy on the board for the remainder of the unexpired term. All board members are limited to two consecutive terms.

(4) Each board member is entitled to compensation for each day spent conducting official business and to reimbursement for travel expenses in accordance with RCW 43.03.240, 43.03.050, and 43.03.060.

NEW SECTION. **Sec. 5.** DIRECTOR'S AUTHORITY. The director has the following authority in administering this chapter:

(1) To adopt, amend, and rescind rules approved by the board as deemed necessary to carry out this chapter;

(2) To administer licensing examinations approved by the board and to adopt or recognize examinations prepared by other entities as approved by the board;

(3) To adopt standards of professional conduct, practice, and ethics as approved by the board; and

(4) To adopt fees as provided in RCW 43.24.086.

NEW SECTION. **Sec. 6.** BOARD'S AUTHORITY. The board has the following authority in administering this chapter:

(1) To establish rules, including board organization and assignment of terms, and meeting frequency and timing, for adoption by the director;

(2) To establish the minimum qualifications for licensing applicants as provided in this chapter;

(3) To approve the method of administration of examinations required by this chapter or by rule as established by the director;

(4) To approve the content of or recognition of examinations prepared by other entities for adoption by the director;

(5) To set the time and place of examinations with the approval of the director; and

(6) To establish and review standards of professional conduct, practice, and ethics for adoption by the director. These standards must address what constitutes certain fire and safety hazards as used in section 3 of this act.

NEW SECTION. **Sec. 7.** QUALIFICATIONS FOR LICENSURE. In order to become licensed as a home inspector, an applicant must submit the following to the department:

(1) An application on a form developed by the department;

(2) Proof of a minimum of one hundred twenty hours of classroom instruction approved by the board;

(3) Proof of up to forty hours of field training supervised by a licensed home inspector;

(4) Evidence of successful passage of the written exam as required in section 8 of this act; and

(5) The fee in the amount set by the department.

NEW SECTION. **Sec. 8.** WRITTEN EXAMS. Applicants for licensure must pass an exam that is psychometrically valid, reliable, and legally defensible by the state. The exam is to be developed, maintained, and administered by the department. The board shall recommend to the director whether to use an exam that is prepared by a national entity. If an exam prepared by a national entity is used, a section specific to Washington shall be developed by the director and included as part of the entire exam.

NEW SECTION. **Sec. 9.** LICENSE LENGTH AND RENEWAL. Licenses are issued for a term of two years and expire on the applicant's second birthday following issuance of the license.

NEW SECTION. **Sec. 10.** ADVERTISING. The term "licensed home inspector" and the license number of the inspector must appear on all advertising, correspondence, and documents incidental to a home inspection. However, businesses and organizations that conduct national or interstate general marketing and advertising campaigns may omit the license number of the inspector in advertising so long as it is included on all documents incident to a home inspection.

NEW SECTION. **Sec. 11.** CONTINUING EDUCATION REQUIREMENTS. (1) As a condition of renewing a license under this chapter, a licensed home inspector shall present satisfactory evidence to the board of having completed the continuing education requirements provided for in this section.

(2) Each applicant for license renewal shall complete at least twenty-four hours of instruction in courses approved by the board every two years.

NEW SECTION. **Sec. 12.** WRITTEN REPORTS. (1) A licensed home inspector shall provide a written report of the home inspection to each person for whom the inspector performs a home inspection within a time period set by the board in rule. The issues to be addressed in the report shall be set by the board in rule.

(2) A licensed home inspector, or other licensed home inspectors or employees who work for the same company or for any company in which the home inspector has a financial interest, shall not, from the time of the inspection until one year from the date of the report, perform any work other than home inspection-related consultation on the home upon which he or she has performed a home inspection.

NEW SECTION. **Sec. 13.** SUSPENSION OF LICENSE. (1) The director shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a child support order. If the person has continued to meet all other requirements for a license under this chapter during the suspension, reissuance of the license is automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the child support order. The procedure in RCW 74.20A.320 is the exclusive administrative remedy for contesting the establishment of noncompliance with a child support order, and suspension of a license under this subsection, and satisfies the requirements of RCW 34.05.422.

(2) The director, with the assistance of the board, shall establish by rule under what circumstances a home inspector license may be suspended or revoked. These circumstances shall be based upon accepted industry standards and the board's cumulative experience.

(3) Any person aggrieved by a decision of the director under this section may appeal the decision as provided in chapter 34.05 RCW. The adjudicative proceeding shall be conducted under chapter 34.05 RCW by an administrative law judge appointed pursuant to RCW 34.12.030.

NEW SECTION. **Sec. 14.** CIVIL INFRACTIONS. The department has the authority to issue civil infractions under chapter 7.80 RCW in the following instances:

(1) Conducting or offering to conduct a home inspection without being licensed in accordance with this chapter;

(2) Presenting or attempting to use as his or her own the home inspector license of another;

(3) Giving any false or forged evidence of any kind to the director or his or her authorized representative in obtaining a license;

(4) Falsely impersonating any other licensee; or

(5) Attempting to use an expired or revoked license.

All fines and penalties collected or assessed by a court because of a violation of this section must be remitted to the department to be deposited into the business and professions account created in RCW 43.24.150.

NEW SECTION. **Sec. 15.** The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. **Sec. 16.** RELIEF BY INJUNCTION. The director is authorized to apply for relief by injunction without bond, to restrain a person from the commission of any act that is prohibited under section 14 of this act. In such a proceeding, it is not necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from continued violation. The director, individuals acting on the director's behalf, and members of the board are immune from suit in any action, civil or criminal, based on disciplinary proceedings or other official acts performed in the course of their duties in the administration and enforcement of this chapter.

NEW SECTION. **Sec. 17.** EXEMPTION FROM LICENSING. The following persons are exempt from the licensing requirements of this chapter when acting within the scope of their license or profession:

(1) Engineers;

(2) Architects;

(3) Electricians licensed under chapter 19.28 RCW;

(4) Plumbers licensed under chapter 18.106 RCW;

(5) Pesticide operators licensed under chapter 17.21 RCW;

(6) Structural pest inspectors licensed under chapter 15.58 RCW; or

(7) Certified real estate appraisers licensed under chapter 18.140 RCW.

NEW SECTION. **Sec. 18.** RECIPROCITY. Persons licensed as home inspectors in other states may become licensed as home inspectors under this chapter as long as the other state has licensing requirements that meet or exceed those required under this chapter and the person seeking a license under this chapter passes the Washington portion of the exam under section 8 of this act.

NEW SECTION. **Sec. 19.** STRUCTURAL PEST INSPECTOR. Any person licensed under this chapter who is not also licensed as a pest inspector under chapter 15.58 RCW shall only refer in his or her report to rot or conducive conditions for wood destroying organisms and shall refer the identification of or damage by wood destroying insects to a structural pest inspector licensed under chapter 15.58 RCW.

NEW SECTION. **Sec. 20.** Captions used in this chapter are not any part of the law.

Sec. 21. RCW 18.235.020 and 2007 c 256 s 12 are each amended to read as follows:

(1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

(i) Auctioneers under chapter 18.11 RCW;

(ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;

(iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;

(iv) Commercial telephone solicitors under chapter 19.158 RCW;

(v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;

(vi) Court reporters under chapter 18.145 RCW;

(vii) Driver training schools and instructors under chapter 46.82 RCW;

(viii) Employment agencies under chapter 19.31 RCW;

(ix) For hire vehicle operators under chapter 46.72 RCW;

(x) Limousines under chapter 46.72A RCW;

(xi) Notaries public under chapter 42.44 RCW;

(xii) Private investigators under chapter 18.165 RCW;

(xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

(xiv) Real estate appraisers under chapter 18.140 RCW;

(xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

(xvi) Security guards under chapter 18.170 RCW;

(xvii) Sellers of travel under chapter 19.138 RCW;

(xviii) Timeshares and timeshare salespersons under chapter 64.36 RCW; ((~~and~~))

(xix) Whitewater river outfitters under chapter 79A.60 RCW; and

(xx) Home inspectors under chapter 18.-- RCW (the new chapter created in section 25 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The state board of registration for architects established in chapter 18.08 RCW;

(ii) The cemetery board established in chapter 68.05 RCW;

(iii) The Washington state collection agency board established in chapter 19.16 RCW;

(iv) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(v) The state board of funeral directors and embalmers established in chapter 18.39 RCW;

(vi) The state board of registration for landscape architects established in chapter 18.96 RCW; and

(vii) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority.

Sec. 22. RCW 43.24.150 and 2005 c 25 s 1 are each amended to read as follows:

(1) The business and professions account is created in the state treasury. All receipts from business or professional licenses, registrations, certifications, renewals, examinations, or civil penalties assessed and collected by the department from the following chapters must be deposited into the account:

(a) Chapter 18.11 RCW, auctioneers;

(b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;

(c) Chapter 18.96 RCW, landscape architects;

(d) Chapter 18.145 RCW, court reporters;

(e) Chapter 18.165 RCW, private investigators;

(f) Chapter 18.170 RCW, security guards;

(g) Chapter 18.185 RCW, bail bond agents;

(h) Chapter 18.-- RCW, home inspectors (the new chapter created in section 25 of this act);

(i) Chapter 19.16 RCW, collection agencies;

((~~(i)~~)) (j) Chapter 19.31 RCW, employment agencies;

((~~(j)~~)) (k) Chapter 19.105 RCW, camping resorts;

((~~(k)~~)) (l) Chapter 19.138 RCW, sellers of travel;

((~~(l)~~)) (m) Chapter 42.44 RCW, notaries public; and

((~~(m)~~)) (n) Chapter 64.36 RCW, timeshares.

Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for expenses incurred in carrying out these business and professions licensing activities of the department. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium.

(2) The director shall biennially prepare a budget request based on the anticipated costs of administering the business and professions licensing activities listed in subsection (1) of this section, which shall include the estimated income from these business and professions fees.

NEW SECTION. **Sec. 23.** A new section is added to chapter 15.58 RCW to read as follows:

A person licensed as a home inspector under chapter 18.--- RCW (the new chapter created in section 25 of this act) is exempt from licensing as a structural pest inspector except when reporting on the identification of or damage by wood destroying insects.

NEW SECTION. **Sec. 24.** A new section is added to chapter 18.85 RCW to read as follows:

The commission must establish procedures, to be adopted in rule by the director, for real estate agents to follow when providing potential home buyers with home inspector referrals.

NEW SECTION. **Sec. 25.** Sections 1 through 20 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. **Sec. 26.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Spanel moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6606.

Senators Spanel and Holmquist spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Spanel that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6606.

The motion by Senator Spanel carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6606 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6606, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6606, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brandland, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Tom and Weinstein - 39

Voting nay: Senators Benton, Carrell, Hewitt, Holmquist, Morton, Roach, Stevens and Zarelli - 8

Excused: Senators Brown and Pflug - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 6606, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6607, with the following amendment: 6607-S AMH AGNR H5819.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 90.72.030 and 2007 c 150 s 1 are each amended to read as follows:

The legislative authority of each county having shellfish tidelands within its boundaries is authorized to establish a shellfish protection district to include areas in which nonpoint pollution threatens the water quality upon which the continuation or restoration of shellfish farming or harvesting is dependent. The legislative authority shall constitute the governing body of the district and shall adopt a shellfish protection program with elements and activities to be effective within the district. The legislative authority may appoint a local advisory council to advise the legislative authority in preparation and implementation of shellfish protection programs. This program shall include any elements deemed appropriate to deal with the nonpoint pollution threatening water quality over shellfish tidelands, including, but not limited to, requiring the elimination or decrease of contaminants in storm water runoff, establishing monitoring, inspection, and

repair elements to ensure that on-site sewage systems are adequately maintained and working properly, assuring that animal grazing and manure management practices are consistent with best management practices, and establishing educational and public involvement programs to inform citizens on the causes of the threatening nonpoint pollution and what they can do to decrease the amount of such pollution. The county legislative authority shall consult with the department of health, the department of ecology, the department of agriculture, or the conservation commission as appropriate as to the elements of the program. An element may be omitted where another program is effectively addressing those sources of nonpoint water pollution. Within the limits of RCW 90.72.040 and 90.72.070, the county legislative authority shall have full jurisdiction and authority to manage, regulate, and control its programs and to fix, alter, regulate, and control the fees for services provided and charges or rates as provided under those programs. Programs established under this chapter, may, but are not required to, be part of a system of sewerage as defined in RCW 36.94.010.

Sec. 2. RCW 90.72.045 and 2007 c 150 s 2 are each amended to read as follows:

The county legislative authority shall create a shellfish protection district and establish a shellfish protection program developed under RCW 90.72.030 or an equivalent program to address the causes or suspected causes of pollution within one hundred eighty days after the department of health, because of water quality degradation due to ongoing nonpoint sources of pollution has closed or downgraded the classification of a recreational or commercial shellfish growing area within the boundaries of the county. The county legislative authority shall initiate implementation of the shellfish protection program within sixty days after it is established.

A copy of the program must be provided to the departments of health, ecology, and agriculture. An agency that has regulatory authority for any of the sources of nonpoint pollution covered by the program shall cooperate with the county in its implementation. The county legislative authority shall submit a written report to the department of health annually that describes the status and progress of the program. If rates or fees are collected under RCW 90.72.070 for implementation of the shellfish protection district program, the annual report shall provide sufficient detail of the expenditure of the revenue collected to ensure compliance with RCW 90.72.070.

Sec. 3. RCW 90.72.070 and 1992 c 100 s 6 are each amended to read as follows:

The county legislative authority establishing a shellfish protection district may finance the protection program through (1) county tax revenues, (2) reasonable inspection fees and similar fees for services provided, (3) reasonable charges or rates specified in its protection program, or (4) federal, state, or private grants. ((~~Confined animal feeding operations subject to the national pollutant discharge elimination system and implementing regulations shall not be subject to fees, rates, or charges by a shellfish protection district.~~)) A dairy animal feeding operation with a certified dairy nutrient management plan as required in chapter 90.64 RCW and any other commercial agricultural operation on agricultural lands as defined in RCW 36.70A.030 shall be subject to fees, rates, or charges by a shellfish protection district of no more than five hundred dollars in a calendar year. Facilities permitted and assessed fees for wastewater discharge under the national pollutant discharge elimination system shall not be subject to fees, rates, or charges for wastewater discharge by a shellfish protection district. Lands classified as forest land under chapter 84.33 RCW and timber land under chapter 84.34 RCW shall not be subject to fees, rates, or charges by a shellfish protection district. Counties may collect charges or rates in the manner determined by the county legislative authority."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Spanel moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6607.

Senator Spanel spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Spanel that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6607.

The motion by Senator Spanel carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6607 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6607, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6607, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brown and Pflug - 2

SUBSTITUTE SENATE BILL NO. 6607, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6626, with the following amendment: 6626-S2 AMH FIN H5933.1

On page 2, after line 35, insert the following:

"(8) "Operationally complete" means a date no later than one year from the date the project is issued an occupancy permit by the local permit issuing authority."

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

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6626.

Senator Kilmer spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6626.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6626 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6626, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6626, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brown and Pflug - 2

SECOND SUBSTITUTE SENATE BILL NO. 6626, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6711, with the following amendment: 6711-S AMH APP H5891.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 43.320 RCW to read as follows:

(1) The smart homeownership choices program is created in the department to assist low-income and moderate-income households, as defined in RCW 84.14.010, facing foreclosure.

(2) The department shall enter into an interagency agreement with the Washington state housing finance commission to implement and administer this program with moneys from the account created in section 2 of this act. The Washington state housing finance commission will request funds from the department as needed to implement and operate the program.

(3) The commission shall, under terms and conditions to be determined by the commission, assist homeowners who are delinquent on their mortgage payments to bring their mortgage payments current in order to refinance into a different loan product. Financial assistance received by homeowners under this chapter shall be repaid at the time of refinancing into a different loan product. Homeowners receiving financial assistance shall also agree to partake in a residential mortgage counseling program. Moneys may also be used for outreach activities to raise awareness of this program. Not more than four percent of the total appropriation for this program may be used for administrative expenses of the department and the commission.

(4) The commission must provide an annual report to the legislature at the end of each fiscal year of program operation. The report must include information including the total number of households seeking help to resolve mortgage delinquency, the number of program participants that successfully avoided foreclosure, and the number of program participants who refinanced a home, including information on the terms of both the new loan product and the product out of which the homeowner refinanced. The commission shall establish and report upon performance measures, including measures to gauge program efficiency and effectiveness and customer satisfaction.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.320 RCW to read as follows:

The smart homeownership choices program account is created in the custody of the state treasurer. All receipts from the appropriation in section 4 of this act as well as receipts from private contributions and all other sources that are specifically designated for the smart homeownership choices program must be deposited into the account. Expenditures from the account may be used solely for the purpose of preventing foreclosures through the smart homeownership choices program as described in section 1 of this act. Only the director of the department 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.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.320 RCW to read as follows:

The Washington state housing finance commission shall only serve low-income households, as defined in RCW 84.14.010, through the smart homeownership choices program described in section 1 of this act using state appropriated general funds in the smart homeownership choices program account created in section 2 of this act. Contributions from private and other sources to the account may be used to serve both low-income and moderate-income households, as defined in RCW 84.14.010, through the smart homeownership choices program.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kauffman moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6711.

Senator Kauffman spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kauffman that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6711.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6711 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6711, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6711, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Hargrove - 1

Excused: Senator Pflug - 1

SUBSTITUTE SENATE BILL NO. 6711, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6732, with the following amendment: 6732-S2 AMH APP H5896.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.27.030 and 2007 c 436 s 3 are each amended to read as follows:

(1) An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the director and which shall include the following information pertaining to the applicant:

(a) Employer social security number.

(b) Unified business identifier number((~~, if required by the department of revenue~~)).

(c) Evidence of workers' compensation coverage for the applicant's employees working in Washington, as follows:

(i) The applicant's industrial insurance account number issued by the department;

(ii) The applicant's self-insurer number issued by the department; or

(iii) For applicants domiciled in a state or province of Canada subject to an agreement entered into under RCW 51.12.120(7), as permitted by the agreement, filing a certificate of coverage issued by the agency that administers the workers' compensation law in the applicant's state or province of domicile certifying that the applicant has secured the payment of compensation under the other state's or province's workers' compensation law.

(d) Employment security department number.

(e) ((~~State excise tax registration number.~~

~~(f)~~)) Unified business identifier (UBI) account number may be substituted for the information required by (c) and (d) of this subsection if the applicant will not employ employees in Washington((~~, and by (d) and (e) of this subsection~~)).

(((~~g~~))) (f) Type of contracting activity, whether a general or a specialty contractor and if the latter, the type of specialty.

(((~~(h)~~))) (g) The name and address of each partner if the applicant is a firm or partnership, or the name and address of the owner if the applicant is an individual proprietorship, or the name and address of the corporate officers and statutory agent, if any, if the applicant is a corporation or the name and address of all members of other business entities. The information contained in such application is a matter of public record and open to public inspection.

(2) The department may verify the workers' compensation coverage information provided by the applicant under subsection (1)(c) of this section, including but not limited to information regarding the coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington.

(3)(a) The department shall deny an application for registration if: (i) The applicant has been previously performing work subject to this chapter as a sole proprietor, partnership, corporation, or other entity and the department has notice that the applicant has an unsatisfied final judgment against him or her in an action based on work performed subject to this chapter or the applicant owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment; (ii) the applicant was an owner, principal, or officer of a partnership, corporation, or other entity that either has an unsatisfied final judgment against it in an action that was incurred for work performed subject to this chapter or owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment; ((~~or~~)) (iii) the applicant does not have a valid unified business identifier number((~~, if required by the department of revenue~~)); (iv) the department determines that the applicant has falsified information on the application, unless the error was inadvertent; or (v) the applicant does not have an active and valid certificate of registration with the department of revenue.

(b) The department shall suspend an active registration if (i) the department has determined that the registrant has an unsatisfied final judgment against it for work within the scope of this chapter; (ii) the department has determined that the registrant is a sole proprietor or an owner, principal, or officer of a registered contractor that has an unsatisfied final judgment against it for work within the scope of this chapter; ((~~or~~)) (iii) the registrant does not maintain a valid unified business identifier number((~~, if required by the department of revenue~~)); (iv) the department has determined that the registrant falsified information on the application, unless the error was inadvertent; or (v) the registrant does not have an active and valid certificate of registration with the department of revenue.

(c) The department may suspend an active registration if the department has determined that an owner, principal, partner, or officer of the registrant was an owner, principal, or officer of a previous partnership, corporation, or other entity that has an unsatisfied final judgment against it.

(4) The department shall not deny an application or suspend a registration because of an unsatisfied final judgment if the applicant's or registrant's unsatisfied final judgment was determined by the director to be the result of the fraud or negligence of another party.

Sec. 2. RCW 18.27.100 and 2001 c 159 s 8 are each amended to read as follows:

(1) Except as provided in RCW 18.27.065 for partnerships and joint ventures, no person who has registered under one name as provided in this chapter shall engage in the business, or act in the capacity, of a contractor under any other name unless such name also is registered under this chapter.

(2) All advertising and all contracts, correspondence, cards, signs, posters, papers, and documents which show a contractor's name or address shall show the contractor's name or address as registered under this chapter.

(3)(a) All advertising that shows the contractor's name or address shall show the contractor's current registration number. The registration number may be omitted in an alphabetized listing of registered contractors stating only the name, address, and telephone number: PROVIDED, That signs on motor vehicles subject to RCW 46.16.010 and on-premise signs shall not constitute advertising as provided in this section. All materials used to directly solicit business from retail customers who are not businesses shall show the contractor's current registration number. A contractor shall not use a false or expired registration number in purchasing or offering to purchase an advertisement for which a contractor registration number is required. Advertising by airwave transmission shall not be subject to this subsection (3)(a).

(b) The director may issue a subpoena to any person or entity selling any advertising subject to this section for the name, address, and telephone number provided to the seller of the advertising by the purchaser of the advertising. The subpoena must have enclosed a stamped, self-addressed envelope and blank form to be filled out by the seller of the advertising. If the seller of the advertising has the information on file, the seller shall, within a reasonable time, return the completed form to the department. The subpoena must be issued no more than two days after the expiration of the issue or publication containing the advertising or after the broadcast of the advertising. The good-faith compliance by a seller of advertising with a written request of the department for information concerning the purchaser of advertising shall constitute a complete defense to any civil or criminal action brought against the seller of advertising arising from such compliance. Advertising by airwave or electronic transmission is subject to this subsection (3)(b).

(4) No contractor shall advertise that he or she is bonded and insured because of the bond required to be filed and sufficiency of insurance as provided in this chapter.

(5) A contractor shall not falsify a registration number and use it, or use an expired registration number, in connection with any solicitation or identification as a contractor. All individual contractors and all partners, associates, agents, salesmen, solicitors, officers, and employees of contractors shall use their true names and addresses at all times while engaged in the business or capacity of a contractor or activities related thereto.

(6) Any advertising by a person, firm, or corporation soliciting work as a contractor when that person, firm, or

corporation is not registered pursuant to this chapter is a violation of this chapter.

(7) An applicant or registrant who falsifies information on an application for registration commits a violation under this section.

(8)(a) The finding of a violation of this section by the director at a hearing held in accordance with the Administrative Procedure Act, chapter 34.05 RCW, shall subject the person committing the violation to a penalty of not more than ten thousand dollars as determined by the director.

(b) Penalties under this section shall not apply to a violation determined to be an inadvertent error.

NEW SECTION. **Sec. 3.** A new section is added to chapter 39.12 RCW to read as follows:

A contractor shall not be allowed to bid on any public works contract for one year from the date of a final determination that the contractor has committed any combination of two of the following violations or infractions within a five-year period:

(1) Violated RCW 51.48.020(1) or 51.48.103; or

(2) Committed an infraction or violation under chapter 18.27 RCW for performing work as an unregistered contractor.

NEW SECTION. **Sec. 4.** A new section is added to chapter 18.27 RCW to read as follows:

A contractor found to have committed an infraction or violation under this chapter for performing work as an unregistered contractor shall, in addition to any penalties under this chapter, be subject to the penalties in section 3 of this act.

Sec. 5. RCW 51.16.070 and 1997 c 54 s 3 are each amended to read as follows:

(1)(a) Every employer shall keep at his or her place of business a record of his or her employment from which the information needed by the department may be obtained and such record shall at all times be open to the inspection of the director, supervisor of industrial insurance, or the traveling auditors, agents, or assistants of the department, as provided in RCW 51.48.040.

(b) An employer who contracts with another person or entity for work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a record of the unified business identifier account number for and the compensation paid to the person or entity performing the work. Failure to obtain or maintain the record is subject to RCW 39.06.010 and to a penalty under RCW 51.48.030.

(2) Information obtained from employing unit records under the provisions of this title shall be deemed confidential and shall not be open to public inspection (other than to public employees in the performance of their official duties), but any interested party shall be supplied with information from such records to the extent necessary for the proper presentation of the case in question: PROVIDED, That any employing unit may authorize inspection of its records by written consent.

Sec. 6. RCW 50.13.060 and 2005 c 274 s 322 are each amended to read as follows:

(1) Governmental agencies, including law enforcement agencies, prosecuting agencies, and the executive branch, whether state, local, or federal shall have access to information or records deemed private and confidential under this chapter if the information or records are needed by the agency for official purposes and:

(a) The agency submits an application in writing to the employment security department for the records or information containing a statement of the official purposes for which the information or records are needed and specific identification of the records or information sought from the department; and

(b) The director, commissioner, chief executive, or other official of the agency has verified the need for the specific information in writing either on the application or on a separate document; and

(c) The agency requesting access has served a copy of the application for records or information on the individual or employing unit whose records or information are sought and has provided the department with proof of service. Service shall be made in a manner which conforms to the civil rules for superior court. The requesting agency shall include with the copy of the application a statement to the effect that the individual or employing unit may contact the public records officer of the employment security department to state any objections to the release of the records or information. The employment security department shall not act upon the application of the requesting agency until at least five days after service on the concerned individual or employing unit. The employment security department shall consider any objections raised by the concerned individual or employing unit in deciding whether the requesting agency needs the information or records for official purposes.

(2) The requirements of subsections (1) and (9) of this section shall not apply to the state legislative branch. The state legislature shall have access to information or records deemed private and confidential under this chapter, if the legislature or a legislative committee finds that the information or records are necessary and for official purposes. If the employment security department does not make information or records available as provided in this subsection, the legislature may exercise its authority granted by chapter 44.16 RCW.

(3) In cases of emergency the governmental agency requesting access shall not be required to formally comply with the provisions of subsection (1) of this section at the time of the request if the procedures required by subsection (1) of this section are complied with by the requesting agency following the receipt of any records or information deemed private and confidential under this chapter. An emergency is defined as a situation in which irreparable harm or damage could occur if records or information are not released immediately.

(4) The requirements of subsection (1)(c) of this section shall not apply to governmental agencies where the procedures would frustrate the investigation of possible violations of criminal laws or to the release of employing unit names, addresses, number of employees, and aggregate employer wage data for the purpose of state governmental agencies preparing small business economic impact statements under chapter 19.85 RCW or preparing cost-benefit analyses under RCW 34.05.328(1) (c) and (d). Information provided by the department and held to be private and confidential under state or federal laws must not be misused or released to unauthorized parties. A person who misuses such information or releases such information to unauthorized parties is subject to the sanctions in RCW 50.13.080.

(5) Governmental agencies shall have access to certain records or information, limited to such items as names, addresses, social security numbers, and general information about benefit entitlement or employer information possessed by the department, for comparison purposes with records or information possessed by the requesting agency to detect improper or fraudulent claims, or to determine potential tax liability or employer compliance with registration and licensing requirements. In those cases the governmental agency shall not be required to comply with subsection (1)(c) of this section, but the requirements of the remainder of subsection (1) of this section must be satisfied.

(6) Governmental agencies may have access to certain records and information, limited to employer information possessed by the department for purposes authorized in chapter 50.38 RCW. Access to these records and information is limited to only those individuals conducting authorized statistical analysis, research, and evaluation studies. Only in cases consistent with the purposes of chapter 50.38 RCW are government agencies not required to comply with subsection (1)(c) of this section, but the requirements of the remainder of subsection (1) of this section must be satisfied. Information provided by the department and held to be private and confidential under state or federal laws shall not be misused or released to unauthorized parties subject to the sanctions in RCW 50.13.080.

(7) Disclosure to governmental agencies of information or records obtained by the employment security department from the federal government shall be governed by any applicable federal law or any agreement between the federal government and the employment security department where so required by federal law. When federal law does not apply to the records or information state law shall control.

(8) The department may provide information for purposes of statistical analysis and evaluation of the WorkFirst program or any successor state welfare program to the department of social and health services, the office of financial management, and other governmental entities with oversight or evaluation responsibilities for the program in accordance with RCW 43.20A.080. The confidential information provided by the department shall remain the property of the department and may be used by the authorized requesting agencies only for statistical analysis, research, and evaluation purposes as provided in RCW 74.08A.410 and 74.08A.420. The department of social and health services, the office of financial management, or other governmental entities with oversight or evaluation responsibilities for the program are not required to comply with subsection (1)(c) of this section, but the requirements of the remainder of subsection (1) of this section and applicable federal laws and regulations must be satisfied. The confidential information used for evaluation and analysis of welfare reform supplied to the authorized requesting entities with regard to the WorkFirst program or any successor state welfare program are exempt from public inspection and copying under chapter 42.56 RCW.

(9) The disclosure of any records or information by a governmental agency which has obtained the records or information under this section is prohibited unless the disclosure is (a) directly connected to the official purpose for which the records or information were obtained or (b) to another governmental agency which would be permitted to obtain the records or information under subsection (4) or (5) of this section.

(10) In conducting periodic salary or fringe benefit studies pursuant to law, the department of personnel shall have access to records of the employment security department as may be required for such studies. For such purposes, the requirements of subsection (1)(c) of this section need not apply.

(11)(a) To promote the reemployment of job seekers, the commissioner may enter into data-sharing contracts with partners of the one-stop career development system. The contracts shall provide for the transfer of data only to the extent that the transfer is necessary for the efficient provisions of workforce programs, including but not limited to public labor exchange, unemployment insurance, worker training and retraining, vocational rehabilitation, vocational education, adult education, transition from public assistance, and support services. The transfer of information under contracts with one-stop partners is exempt from subsection (1)(c) of this section.

(b) An individual who applies for services from the department and whose information will be shared under (a) of this subsection (11) must be notified that his or her private and confidential information in the department's records will be shared among the one-stop partners to facilitate the delivery of one-stop services to the individual. The notice must advise the individual that he or she may request that private and confidential information not be shared among the one-stop partners and the department must honor the request. In addition, the notice must:

(i) Advise the individual that if he or she requests that private and confidential information not be shared among one-stop partners, the request will in no way affect eligibility for services;

(ii) Describe the nature of the information to be shared, the general use of the information by one-stop partner representatives, and among whom the information will be shared;

(iii) Inform the individual that shared information will be used only for the purpose of delivering one-stop services and that further disclosure of the information is prohibited under contract and is not subject to disclosure under chapter 42.56 RCW; and

(iv) Be provided in English and an alternative language selected by the one-stop center or job service center as appropriate for the community where the center is located.

If the notice is provided in-person, the individual who does not want private and confidential information shared among the one-stop partners must immediately advise the one-stop partner representative of that decision. The notice must be provided to an individual who applies for services telephonically, electronically, or by mail, in a suitable format and within a reasonable time after applying for services, which shall be no later than ten working days from the department's receipt of the application for services. A one-stop representative must be available to answer specific questions regarding the nature, extent, and purpose for which the information may be shared.

(12) To facilitate improved operation and evaluation of state programs, the commissioner may enter into data-sharing contracts with other state agencies only to the extent that such transfer is necessary for the efficient operation or evaluation of outcomes for those programs. The transfer of information by contract under this subsection is exempt from subsection (1)(c) of this section.

(13) The misuse or unauthorized release of records or information by any person or organization to which access is permitted by this chapter subjects the person or organization to a civil penalty of five thousand dollars and other applicable sanctions under state and federal law. Suit to enforce this section shall be brought by the attorney general and the amount of any penalties collected shall be paid into the employment security department administrative contingency fund. The attorney general may recover reasonable attorneys' fees for any action brought to enforce this section.

Sec. 7. RCW 50.12.070 and 2007 c 146 s 1 are each amended to read as follows:

(1)(a) Each employing unit shall keep true and accurate work records, containing such information as the commissioner may prescribe. Such records shall be open to inspection and be subject to being copied by the commissioner or his or her authorized representatives at any reasonable time and as often as may be necessary. The commissioner may require from any employing unit any sworn or unsworn reports with respect to persons employed by it, which he or she deems necessary for the effective administration of this title.

(b) An employer who contracts with another person or entity for work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a record of the unified business identifier account number for and compensation paid to the person or entity performing the work. Failure to obtain or maintain the record is subject to RCW 39.06.010 and to a penalty determined by the commissioner, but not to exceed two hundred fifty dollars, to be collected as provided in RCW 50.24.120.

(2)(a) Each employer shall register with the department and obtain an employment security account number. Registration must include the names and social security numbers of the owners, partners, members, or corporate officers of the business, as well as their mailing addresses and telephone numbers and other information the commissioner may by rule prescribe. Registration of corporations must also include the percentage of stock ownership for each corporate officer, delineated by zero percent, less than ten percent, or ten percent or more. Any changes in the owners, partners, members, or corporate officers of the business, and changes in percentage of ownership of the outstanding shares of stock of the corporation, must be reported to the department at intervals prescribed by the commissioner under (b) of this subsection.

(b) Each employer shall make periodic reports at such intervals as the commissioner may by regulation prescribe, setting forth the remuneration paid for employment to workers in its employ, the full names and social security numbers of all such workers, and the total hours worked by each worker and such other information as the commissioner may by regulation prescribe.

(c) If the employing unit fails or has failed to report the number of hours in a reporting period for which a worker worked, such number will be computed by the commissioner and given the same force and effect as if it had been reported by the employing unit. In computing the number of such hours worked, the total wages for the reporting period, as reported by the employing unit, shall be divided by the dollar amount of the state's minimum wage in effect for such reporting period and the quotient, disregarding any remainder, shall be credited to the worker: PROVIDED, That although the computation so made

will not be subject to appeal by the employing unit, monetary entitlement may be redetermined upon request if the department is provided with credible evidence of the actual hours worked. Benefits paid using computed hours are not considered an overpayment and are not subject to collections when the correction of computed hours results in an invalid or reduced claim; however:

(i) A contribution paying employer who fails to report the number of hours worked will have its experience rating account charged for all benefits paid that are based on hours computed under this subsection; and

(ii) An employer who reimburses the trust fund for benefits paid to workers and fails to report the number of hours worked shall reimburse the trust fund for all benefits paid that are based on hours computed under this subsection.

Sec. 8. RCW 51.48.103 and 2003 c 53 s 283 are each amended to read as follows:

(1) It is a gross misdemeanor:

(a) For any employer to engage in business subject to this title without having obtained a certificate of coverage as provided for in this title;

(b) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business subject to this title without having obtained a certificate of coverage as provided for in this title.

(2) It is a class C felony punishable according to chapter 9A.20 RCW:

(a) For any employer to engage in business subject to this title after the employer's certificate of coverage has been revoked by order of the department;

(b) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business subject to this title after revocation of a certificate of coverage.

(3) An employer found to have violated this section shall, in addition to any other penalties, be subject to the penalties in section 3 of this act.

Sec. 9. RCW 51.48.020 and 1997 c 324 s 1 are each amended to read as follows:

(1)(a) Any employer, who knowingly misrepresents to the department the amount of his or her payroll or employee hours upon which the premium under this title is based, shall be liable to the state for up to ten times the amount of the difference in premiums paid and the amount the employer should have paid and for the reasonable expenses of auditing his or her books and collecting such sums. Such liability may be enforced in the name of the department.

(b) An employer is guilty of a class C felony, if:

(i) The employer, with intent to evade determination and payment of the correct amount of the premiums, knowingly makes misrepresentations regarding payroll or employee hours; or

(ii) The employer engages in employment covered under this title and, with intent to evade determination and payment of the correct amount of the premiums, knowingly fails to secure payment of compensation under this title or knowingly fails to report the payroll or employee hours related to that employment.

(c) Upon conviction under (b) of this subsection, the employer shall be ordered by the court to pay the premium due and owing, a penalty in the amount of one hundred percent of the premium due and owing, and interest on the premium and penalty from the time the premium was due until the date of payment. The court shall:

(i) Collect the premium and interest and transmit it to the department of labor and industries; and

(ii) Collect the penalty and disburse it pro rata as follows: One-third to the investigative agencies involved; one-third to the prosecuting authority; and one-third to the general fund of the county in which the matter was prosecuted.

Payments collected under this subsection must be applied until satisfaction of the obligation in the following order: Premium payments; penalty; and interest.

(d) An employer found to have violated this subsection shall, in addition to any other penalties, be subject to the penalties in section 3 of this act.

(2) Any person claiming benefits under this title, who knowingly gives false information required in any claim or application under this title shall be guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW.

Sec. 10. 2007 c 288 s 2 (uncodified) is amended to read as follows:

(1) The joint legislative task force on the underground economy in the Washington state construction industry is established. For purposes of this section, "underground economy" means contracting and construction activities in which payroll is unreported or underreported with consequent nonpayment of payroll taxes to federal and state agencies including nonpayment of workers' compensation and unemployment compensation taxes.

(2) The purpose of the task force is to formulate a state policy to establish cohesion and transparency between state agencies so as to increase the oversight and regulation of the underground economy practices in the construction industry in this state. To assist the task force in achieving this goal and to determine the extent of and projected costs to the state and workers of the underground economy in the construction industry, the task force shall contract with the institute for public policy, or, if the institute is unavailable, another entity with expertise capable of providing such assistance.

(3)(a) The task force shall consist of the following members:

(i) The chair and ranking minority member of the senate labor, commerce, research and development committee;

(ii) The chair and ranking minority member of the house of representatives commerce and labor committee;

(iii) Four members representing the construction business, selected from nominations submitted by statewide construction business organizations and appointed jointly by the president of the senate and the speaker of the house of representatives;

(iv) Four members representing construction laborers, selected from nominations submitted by statewide labor organizations and appointed jointly by the president of the senate and the speaker of the house of representatives.

(b) In addition, the employment security department, the department of labor and industries, and the department of revenue shall cooperate with the task force and shall each maintain a liaison representative, who is a nonvoting member of the task force. The departments shall cooperate with the task force and the institute for public policy, or other entity as appropriate, and shall provide information and data as the task force or the institute, or other entity as appropriate, may reasonably request.

(c) The task force shall choose its chair or cochairs from among its legislative membership. The chairs of the senate labor, commerce, research and development committee and the house of representatives commerce and labor committee shall convene the initial meeting of the task force.

(4)(a) The task force shall use legislative facilities and staff support shall be provided by senate committee services and the house of representatives office of program research. Within available funding, the task force may hire additional staff with specific technical expertise if such expertise is necessary to carry out the mandates of this study.

(b) Legislative members of the task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(c) The expenses of the task force will be paid jointly by the senate and house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(5) The task force shall report its preliminary findings and recommendations to the legislature by January 1, 2008, and submit a final report to the legislature by December 31, 2008.

(6) This section expires July 1, ((~~2008~~)) 2009.

NEW SECTION. **Sec. 11.** (1)(a) Three staff members, one being a working supervisor, must be added to the department of

labor and industries' fraud audit infraction and revenue contractor fraud team.

(b) The department of labor and industries and the employment security department shall hire more auditors to assist with their enforcement activities relating to the underground economy in the construction industry. At a minimum, the department of labor and industries shall hire three more auditors.

(2) If funds are made available in the 2008 supplemental budget, money must be dedicated to the attorney general's office to be used in the enforcement of contractor compliance cases.

NEW SECTION. **Sec. 12.** A new section is added to chapter 18.27 RCW to read as follows:

The department shall create an expanded social marketing campaign using currently available materials and newly created materials as needed. This campaign should be aimed at consumers and warn them of the risks and potential consequences of hiring unregistered contractors or otherwise assisting in the furtherance of the underground economy. The campaign may include: Providing public service announcements and other similar materials, made available in English as well as other languages, to the media and to community groups; providing information on violations and penalties; and encouraging legitimate contractors and the public to report fraud.

NEW SECTION. **Sec. 13.** A new section is added to chapter 43.22 RCW to read as follows:

(1) A pilot project must be established between the department and certain local jurisdictions to explore ways to improve the collection and sharing of building permit information. Participation must be voluntary for the local jurisdictions who participate, but one large city, some smaller cities, and at least one county are encouraged to participate.

(2) The department must report back to the appropriate committees of the legislature on the progress of the pilot project by November 15, 2013.

(3) The department may adopt rules to undertake the pilot project under this section.

(4) This section expires December 1, 2014.

NEW SECTION. **Sec. 14.** An advisory committee must be organized by the Washington state institute for public policy with the assistance of the department of revenue, the department of labor and industries, and the employment security department, with a goal of establishing benchmarks for future monitoring of activities recommended by the task force on the underground economy in the construction industry. Benchmarks should measure the effect of task force recommendations to determine their efficiency and effectiveness and to determine if additional approaches should be explored. Establishment of these benchmarks along with a more concerted effort to develop data that answer the baseline question of the magnitude of the problem could be discussed in a legislative extension of the task force. The institute must provide a preliminary report to the senate labor, commerce, research and development committee and the house of representatives commerce and labor committee by December 31, 2008.

NEW SECTION. **Sec. 15.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

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

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6732.

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 Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6732.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6732 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6732, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6732, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Brown - 1

Excused: Senator Pflug - 1

SECOND SUBSTITUTE SENATE BILL NO. 6732, 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.

At the request of the President, “Bumble Bee Rock” by the Ventures was played in the chamber in honor of the Ventures.

REMARKS BY THE PRESIDENT

President Owen: “Well, ladies and gentlemen of the Senate, the President took a little of his discretionary authority here to play a little classic rock music because, about three years ago, this August body chose to send a resolution to the Rock and Roll Hall of Fame asking that our own Ventures from Tacoma, Washington be inducted into the Rock and Roll Hall of Fame after selling over one-hundred and ten million albums and being ignored year after year, after year. Well, today’s the day that they will be inducted into the Rock and Roll Hall of Fame, finally.

The President did pass around the Governor’s proclamation that declares today ‘Ventures Day’ today and encourage you to get your 45s, your LPs, our eight-track cassettes, your cassettes, your CDs, your iPods and whatever else you have and play some Ventures music today. We just thought we’d start your day off with that. All right. Oh, and by the way, the President will that Senator McAuliffe did not get the right memo today. She thought we were honoring KISS today. If you notice those...The Ventures. I don’t know where you find them but you do a...She’s really only four foot, eleven.”

PERSONAL PRIVILEGE

Senator Eide: "Mr. President, it's interesting that you would mention Senator McAuliffe because I had written it down. I was going to mention something about those wonderful boots too. Can't miss 'em."

PERSONAL PRIVILEGE

Senator Marr: "I just wonder if, on your and my behalf, we could ask Senator McAuliffe where she got those shoes."

REPLY BY THE PRESIDENT

President Owen: Laughs. "I don't get it."

MOTION

There being no objection, on motion of Senator Eide, the following measures on the second and third reading calendar were referred to the Committee on Rules and placed in the "X" file.

Engrossed Second Substitute House Bill No. 1115
Engrossed Second Substitute House Bill No. 1332
House Bill No. 1345
Substitute House Bill No. 1346
House Bill No. 1403
Engrossed Substitute House Bill No. 1453
Substitute House Bill No. 1534
Substitute House Bill No. 1625
Substitute House Bill No. 1675
Engrossed Substitute House Bill No. 1727
Second Substitute House Bill No. 1734
House Bill No. 1775
Engrossed Fourth Substitute House Bill No. 1806
House Bill No. 2203
Substitute House Bill No. 2337
Substitute House Bill No. 2439
Substitute House Bill No. 2444
Substitute House Bill No. 2452
House Bill No. 2470
House Bill No. 2473
House Bill No. 2485
House Bill No. 2489
Substitute House Bill No. 2501
Second Substitute House Bill No. 2530
House Bill No. 2565
Substitute House Bill No. 2567
Substitute House Bill No. 2595
Engrossed Second Substitute House Bill No. 2631
House Bill No. 2651
House Bill No. 2655
Substitute House Bill No. 2670
House Bill No. 2728
House Bill No. 2740
House Bill No. 2761
House Bill No. 2764
Substitute House Bill No. 2811
Engrossed Substitute House Bill No. 2818
Substitute House Bill No. 2836
Engrossed Substitute House Bill No. 2864
House Bill No. 2894
House Bill No. 2909
Substitute House Bill No. 2925
Substitute House Bill No. 2986
House Bill No. 3006
Substitute House Bill No. 3059
Substitute House Bill No. 3069
Substitute House Bill No. 3103
Second Engrossed Substitute House Bill No. 3133
Engrossed Substitute House Bill No. 3148
Engrossed Substitute House Bill No. 3160
House Bill No. 3161
Engrossed Second Substitute House Bill No. 3180
Engrossed House Bill No. 3181
Substitute House Bill No. 3183
House Bill No. 3220
House Bill No. 3249
Substitute House Bill No. 3255
Engrossed House Bill No. 3276
Engrossed House Bill No. 3317
Second Substitute House Bill No. 3349
House Joint Memorial No. 4029
House Joint Memorial No. 4030
House Joint Memorial No. 4031
Substitute Senate Bill No. 5780
Substitute Senate Bill No. 6866

MOTION

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

MOTION

Senator Delvin moved adoption of the following resolution:

SENATE RESOLUTION
8710

By Senators Delvin, Franklin, Haugen, Rockefeller, Rasmussen, Prentice, Benton, McCaslin, Brandland, Carrell, Holmquist, Roach, Shin, Morton, Pridemore, Tom, Hobbs, Marr, King, Hatfield, and Eide

WHEREAS, Freemasons, whose long lineage extends to before Washington achieved statehood, have set an example of high moral standards and charity for all people; and

WHEREAS, The founding fathers of this great State of Washington, many of whom were Freemasons, provided a well-rounded basis for developing themselves and others into valuable citizens of Washington; and

WHEREAS, Members of the Masonic Fraternity, both individually and as an organization, continue to make invaluable charitable contributions of service to the State of Washington; and

WHEREAS, The Masonic Fraternity continues to provide for the charitable relief and education of the citizens of Washington; and

WHEREAS, The Masonic Fraternity is deserving of formal recognition of their long history of caregiving for the citizenry and their example of high moral standards;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize the thousands of Freemasons of Washington and honor them for their many contributions to our state throughout its history; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Freemasons of Washington.

Senators Delvin, Haugen and Benton spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8710.

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

INTRODUCTION OF SPECIAL GUESTS

The President recognized former Representative Brian Thomas, Grand Master of the Freemasons of Washington; the Most Worshipful Wayne I. Smith, Grand Master; and other Freemasons of Washington who were present in the gallery.

MOTION

At 11:03 a.m., on motion of Senator Eide, the Senate the Senate recessed until 1:00 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:00 a.m. by President Owen.

At the request of the President, “Walk Don’t Run” by the Ventures was played in the chamber in honor of the Ventures who were to be inducted into the Rock and Roll Hall of Fame and Museum in Cleveland, Ohio later in the day.

MOTION

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

MESSAGE FROM THE HOUSE

March 8, 2008

MR. PRESIDENT:
The House concurred in Senate amendment to the following bills and passed the bills as amended by the Senate:
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1031,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1621,
SECOND SUBSTITUTE HOUSE BILL NO. 2557,
SUBSTITUTE HOUSE BILL NO. 2602,
SUBSTITUTE HOUSE BILL NO. 2779,
HOUSE BILL NO. 2781,
HOUSE BILL NO. 2887,
SUBSTITUTE HOUSE BILL NO. 2963,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 3166,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3186,
SUBSTITUTE HOUSE BILL NO. 3283,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:
ENGROSSED SENATE BILL NO. 5927,
SENATE BILL NO. 6204,
SUBSTITUTE SENATE BILL NO. 6306,
SUBSTITUTE SENATE BILL NO. 6317,
SUBSTITUTE SENATE BILL NO. 6340,
SUBSTITUTE SENATE BILL NO. 6423,
SUBSTITUTE SENATE BILL NO. 6602,
SUBSTITUTE SENATE BILL NO. 6678,
SUBSTITUTE SENATE BILL NO. 6726,

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6739, with the following amendment: 6739 AMH HCW H5784.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 71.05.020 and 2007 c 375 s 6 and 2007 c 191 s 2 are each reenacted and amended to read as follows:

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

(1) "Admission" or "admit" means a decision by a physician or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(3) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(4) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(5) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(6) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(7) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(8) "Department" means the department of social and health services;

(9) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in chapters 70.96A and 70.96B RCW;

(10) "Designated crisis responder" means a mental health professional appointed by the county or the regional support network to perform the duties specified in this chapter;

(11) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter;

(12) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(13) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(14) "Developmental disability" means that condition defined in RCW 71A.10.020(3);

(15) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(16) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(17) "Gravely disabled" means a condition in which a person, as a result of a mental disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control

over his or her actions and is not receiving such care as is essential for his or her health or safety;

(18) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(19) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility or in confinement as a result of a criminal conviction;

(20) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(21) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(22) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(23) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(24) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(25) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(26) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(27) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill;

(28) "Professional person" means a mental health professional and shall also mean a physician, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(29) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing.

(30) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(((~~(30)~~))) (31) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(((~~(31)~~))) (32) "Public agency" means any evaluation and treatment facility or institution, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

(((~~(32)~~))) (33) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness;

(((~~(33)~~))) (34) "Release" means legal termination of the commitment under the provisions of this chapter;

(((~~(34)~~))) (35) "Resource management services" has the meaning given in chapter 71.24 RCW;

(((~~(35)~~))) (36) "Secretary" means the secretary of the department of social and health services, or his or her designee;

(((~~(36)~~))) (37) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary;

(((~~(37)~~))) (38) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others;

(((~~(38)~~))) (39) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

Sec. 2. RCW 71.05.215 and 1997 c 112 s 16 are each amended to read as follows:

(1) A person found to be gravely disabled or presents a likelihood of serious harm as a result of a mental disorder has a right to refuse antipsychotic medication unless it is determined that the failure to medicate may result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment and there is no less intrusive course of treatment than medication in the best interest of that person.

(2) The department shall adopt rules to carry out the purposes of this chapter. These rules shall include:

(a) An attempt to obtain the informed consent of the person prior to administration of antipsychotic medication.

(b) For short-term treatment up to thirty days, the right to refuse antipsychotic medications unless there is an additional concurring medical opinion approving medication by a psychiatrist, psychiatric advanced registered nurse practitioner, or physician in consultation with a mental health professional with prescriptive authority.

(c) For continued treatment beyond thirty days through the hearing on any petition filed under RCW ((~~71.05.370(7)~~)) 71.05.217, the right to periodic review of the decision to medicate by the medical director or designee.

(d) Administration of antipsychotic medication in an emergency and review of this decision within twenty-four hours. An emergency exists if the person presents an imminent likelihood of serious harm, and medically acceptable alternatives to administration of antipsychotic medications are not available or are unlikely to be successful; and in the opinion of the physician or psychiatric advanced registered nurse practitioner, the person's condition constitutes an emergency requiring the treatment be instituted prior to obtaining a second medical opinion.

(e) Documentation in the medical record of the ((~~physician's~~)) attempt by the physician or psychiatric advanced registered nurse practitioner to obtain informed consent and the reasons why antipsychotic medication is being administered over the person's objection or lack of consent.

Sec. 3. RCW 71.05.217 and 1997 c 112 s 31 are each amended to read as follows:

Insofar as danger to the individual or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

(1) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

(2) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

(3) To have access to individual storage space for his or her private use;

(4) To have visitors at reasonable times;

(5) To have reasonable access to a telephone, both to make and receive confidential calls;

(6) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(7) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to RCW 71.05.320(((~~2~~))) (3) or the performance of electroconvulsant therapy or surgery, except emergency life-saving surgery, unless ordered by a court of competent jurisdiction pursuant to the following standards and procedures:

(a) The administration of antipsychotic medication or electroconvulsant therapy shall not be ordered unless the petitioning party proves by clear, cogent, and convincing evidence that there exists a compelling state interest that justifies overriding the patient's lack of consent to the administration of antipsychotic medications or electroconvulsant therapy, that the proposed treatment is necessary and effective, and that medically acceptable alternative forms of treatment are not available, have not been successful, or are not likely to be effective.

(b) The court shall make specific findings of fact concerning: (i) The existence of one or more compelling state interests; (ii) the necessity and effectiveness of the treatment; and (iii) the person's desires regarding the proposed treatment. If the patient is unable to make a rational and informed decision about consenting to or refusing the proposed treatment, the court shall make a substituted judgment for the patient as if he or she were competent to make such a determination.

(c) The person shall be present at any hearing on a request to administer antipsychotic medication or electroconvulsant therapy filed pursuant to this subsection. The person has the right: (i) To be represented by an attorney; (ii) to present evidence; (iii) to cross-examine witnesses; (iv) to have the rules of evidence enforced; (v) to remain silent; (vi) to view and copy all petitions and reports in the court file; and (vii) to be given reasonable notice and an opportunity to prepare for the hearing. The court may appoint a psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, or physician to examine and testify on behalf of such person. The court shall appoint a psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, or physician designated by such person or the person's counsel to testify on behalf of the person in cases where an order for electroconvulsant therapy is sought.

(d) An order for the administration of antipsychotic medications entered following a hearing conducted pursuant to this section shall be effective for the period of the current involuntary treatment order, and any interim period during which the person is awaiting trial or hearing on a new petition for involuntary treatment or involuntary medication.

(e) Any person detained pursuant to RCW 71.05.320(((~~2~~))) (3), who subsequently refuses antipsychotic medication, shall be entitled to the procedures set forth in ((~~RCW 71.05.217(7)~~)) this subsection.

(f) Antipsychotic medication may be administered to a nonconsenting person detained or committed pursuant to this chapter without a court order pursuant to RCW 71.05.215(2) or under the following circumstances:

(i) A person presents an imminent likelihood of serious harm;

(ii) Medically acceptable alternatives to administration of antipsychotic medications are not available, have not been successful, or are not likely to be effective; and

(iii) In the opinion of the physician or psychiatric advanced registered nurse practitioner with responsibility for treatment of the person, or his or her designee, the person's condition constitutes an emergency requiring the treatment be instituted before a judicial hearing as authorized pursuant to this section can be held.

If antipsychotic medications are administered over a person's lack of consent pursuant to this subsection, a petition for an order authorizing the administration of antipsychotic medications shall be filed on the next judicial day. The hearing shall be held within two judicial days. If deemed necessary by the physician or psychiatric advanced registered nurse practitioner with responsibility for the treatment of the person, administration of antipsychotic medications may continue until the hearing is held;

(8) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue;

(9) Not to have psychosurgery performed on him or her under any circumstances."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Franklin moved that the Senate concur in the House amendment(s) to Senate Bill No. 6739.

Senator Franklin spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

MOTION

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

The President declared the question before the Senate to be the motion by Senator Franklin that the Senate concur in the House amendment(s) to Senate Bill No. 6739.

The motion by Senator Franklin carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6739 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6739, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6739, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 2; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 44

Absent: Senators Hargrove and Kline - 2

Excused: Senators Brown, Prentice and Zarelli - 3

SENATE BILL NO. 6739, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6743, with the following amendment: 6743-S AMH ENGR H5987.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.155 RCW to read as follows:

(1) To the extent funds are appropriated for this purpose, by September 1, 2008, the office of the superintendent of public instruction shall print and distribute the autism guidebook as developed by the caring for Washington individuals with autism task force and make it and other relevant materials available through the department of health, department of social and health services, and the office of the superintendent of public instruction web sites and other methods as appropriate. The office of the superintendent of public instruction shall provide copies of the autism guidebook to educational service districts, school districts, and appropriate school level employees, as well as to those parent advocacy groups and other educational staff who request copies. The autism guidebook shall include, but not be limited to, the following guidelines to address the unique needs of students with autism:

(a) Extended educational programming, including extended day and extended school year services, that consider the duration of programs and settings based on an assessment of behavior, social skills, communication, academics, and self-help skills;

(b) Daily schedules reflecting minimal unstructured time and active engagement in learning activities, including lunch, snack, and recess, and providing flexibility within routines that are adaptable to individual skill levels and assist with schedule changes, such as field trips, substitute teachers, and pep rallies;

(c) In-home and community-based training or a viable alternative that assists the student with acquisition of social and behavioral skills, including strategies that facilitate maintenance and generalization of those skills from home to school, school to home, home to community, and school to community;

(d) Positive behavior support strategies based on information, such as:

(i) Antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions; and

(ii) A behavior intervention plan developed from a functional behavioral assessment that uses current data related to target behaviors and addresses behavioral programming across home, school, and community-based settings;

(e) Beginning at any age, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and postsecondary environments;

(f) Parent and family training and support, provided by qualified personnel with experience in autism spectrum disorder, that:

(i) Provides a family with skills necessary for a child to succeed in the home and community setting;

(ii) Includes information regarding resources such as parent support groups, workshops, videos, conferences, and materials designed to increase parent knowledge of specific teaching and management techniques related to the child's curriculum; and

(iii) Facilitates parental carryover of in-home training and includes strategies for behavior management and developing structured home environments and communication training so that parents are active participants in promoting the continuity of interventions across all settings;

(g) A suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social and behavioral progress based on the child's developmental and learning level, including acquisition, fluency, maintenance, and generalization, that encourages work towards individual independence as determined by:

(i) Adaptive behavior evaluation results;

(ii) Behavioral accommodation needs across settings; and

(iii) Transitions within the school day;

(h) Communication interventions, including language forms and functions that enhance effective communication across settings, such as augmentative, incidental, and naturalistic teaching;

(i) Social skills supports and strategies based on social skills assessment and curriculum and provided across settings, for example trained peer facilitators such as a circle of friends, video modeling, social stories, and role playing;

(j) Professional educator and staff support, such as training provided to personnel who work with students to assure the correct implementation of techniques and strategies described in the individualized education programs; and

(k) Teaching strategies based on peer reviewed and research-based practices for students with autism spectrum disorder, such as those associated with discrete-trial training, visual supports, applied behavior analysis, structured learning, augmentative communication, or social skills training.

(2) By December 1, 2008, the professional educator standards board and the office of the superintendent of public instruction shall, in collaboration with the educational service districts, local school districts, and the autism center at the

University of Washington as appropriate, develop recommendations for autism awareness instruction and methods of teaching students with autism for all educator preparation and professional development programs. It is the intent of the legislature that the recommendations shall be designed with the goal of ensuring that educators and classified staff who work with children with autism are well prepared and up-to-date on the most effective methods of teaching children with autism. The recommendations shall be submitted to the governor and the education committees of the legislature and shall be made available to school districts on the office of the superintendent of public instruction's web site. The professional educator standards board and the office of the superintendent of public instruction may each submit its recommendations separately or the recommendations may be submitted jointly. The recommendations shall at a minimum:

(a) Establish a date by which all candidates for a Washington instructional certificate shall be required to satisfactorily complete instruction in autism awareness and methods of teaching students with autism at an accredited institution of higher education; and

(b) Establish appropriate professional development requirements for existing teachers that incorporate methods for teaching students with autism.

(3) If the legislature formally approves the recommendations through the omnibus appropriations act or by statute or concurrent resolution, by July 1, 2009, each school district shall use the recommendations developed under subsection (2) of this section to develop and adopt a school district policy regarding recommended and required professional development for teachers and appropriate classified staff.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.155 RCW to read as follows:

(1) To the extent funds are appropriated for this purpose, by September 1, 2008, the office of the superintendent of public instruction, in collaboration with the department of health, the department of social and health services, educational service districts, local school districts, the autism center at the University of Washington, and the autism society of Washington, shall distribute information on child find responsibilities under Part B and Part C of the federal individuals with disabilities education act, as amended, to agencies, districts, and schools that participate in the location, evaluation, and identification of children who may be eligible for early intervention services or special education services.

(2) To the extent funds are made available, by September 1, 2008, the office of the superintendent of public instruction, in collaboration with the department of health and the department of social and health services, shall develop posters to be distributed to medical offices and clinics, grocery stores, and other public places with information on autism and how parents can gain access to the diagnosis and identification of autism and contact information for services and support. These must be made available on the internet for ease of distribution."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rasmussen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6743.

Senator Rasmussen spoke in favor of the motion.

MOTION

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

The President declared the question before the Senate to be the motion by Senator Rasmussen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6743.

The motion by Senator Rasmussen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6743 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6743, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6743, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brown, Kline and Zarelli - 3

SUBSTITUTE SENATE BILL NO. 6743, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6751, with the following amendment: 6751-S AMH CL H5743.1

On page 5, line 20, after "council" insert ". Benefits are payable beginning Sunday of the week prior to the week in which the individual begins active participation in the apprenticeship program"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6751.

Senator Kohl-Welles spoke in favor of the motion.

Senator Holmquist spoke against the 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. 6751.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6751 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6751, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of

Substitute Senate Bill No. 6751, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

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

Voting nay: Senators Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 16

Excused: Senator Brown - 1

SUBSTITUTE SENATE BILL NO. 6751, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6761, with the following amendment: 6761-S AMH ENGR H5845.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 90.84.030 and 1998 c 248 s 4 are each amended to read as follows:

(1) Subject to the requirements of this chapter, the department, through a collaborative process, shall adopt rules for:

(((~~(1)~~))) (a) Certification, operation, and monitoring of wetlands mitigation banks. The rules shall include procedures to assure that:

(((~~(a)~~))) (i) Priority is given to banks providing for the restoration of degraded or former wetlands;

(((~~(b)~~))) (ii) Banks involving the creation and enhancement of wetlands are certified only where there are adequate assurances of success and that the bank will result in an overall environmental benefit; and

(((~~(c)~~))) (iii) Banks involving the preservation of wetlands or associated uplands are certified only when the preservation is in conjunction with the restoration, enhancement, or creation of a wetland, or in other exceptional circumstances as determined by the department consistent with this chapter;

(((~~(2)~~))) (b) Determination and release of credits from banks. Procedures regarding credits shall authorize the use and sale of credits to offset adverse impacts and the phased release of credits as different levels of the performance standards are met;

(((~~(3)~~))) (c) Public involvement in the certification of banks, using existing statutory authority;

(((~~(4)~~))) (d) Coordination of governmental agencies, including early notification of the local government where the bank is located;

(((~~(5)~~))) (e) Establishment of criteria for determining service areas for each bank in accordance with subsection (2) of this section;

(((~~(6)~~))) (f) Performance standards; and

(((~~(7)~~))) (g) Long-term management, financial assurances, and remediation for certified banks.

(2) The criteria for determining service areas under subsection (1)(e) of this section shall include a requirement that restricts the maximum extent of the service area of a wetlands mitigation bank to the water resource inventory area (WRIA) as established under chapter 173-500 WAC in which the bank is located except where a service area may include parts of other WRIAs if it is ecologically defensible and appropriate.

(3) Before adopting rules under this chapter, the department shall submit the proposed rules to the appropriate standing committees of the legislature. By January 30, 1999, the department shall submit a report to the appropriate standing committees of the legislature on its progress in developing rules under this chapter.

Sec. 2. RCW 90.84.040 and 1998 c 248 s 5 are each amended to read as follows:

(1) The department may certify only those banks that meet the requirements of this chapter. Certification shall be accomplished through a banking instrument. The local jurisdiction in which the bank is located shall be signatory to the banking instrument.

(2) For a bank for which an application for a banking instrument was filed January 1, 2008, or thereafter, the department may not certify a bank without local approval of the bank. The local jurisdiction in which the bank is located has final approval over the certification of the mitigation bank. If the local government approves the bank, it shall be a signatory to the banking instrument.

(3) State agencies and local governments may approve use of credits from a bank for any mitigation required under a permit issued or approved by that state agency or local government to compensate for the proposed impacts of a specific public or private project."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Murray moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6761.

Senator Murray spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Murray that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6761.

The motion by Senator Murray carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6761 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6761, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6761, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 1; Excused, 1.

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

Voting nay: Senator Zarelli - 1

Absent: Senator Weinstein - 1

Excused: Senator Brown - 1

SUBSTITUTE SENATE BILL NO. 6761, as amended by the House, having received the constitutional majority, was

declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6804, with the following amendment: 6804-S AMH CB H5881.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.50 RCW to read as follows:

(1) Subject to funding provided specifically for the purposes of this section, the state board for community and technical colleges, in consultation with the exclusive bargaining representative of individual providers under RCW 74.39A.270, shall allocate capital grants on a competitive basis to up to four community college pilot sites for the delivery of training and workforce development services for long-term care workers required under chapter 74.39A RCW. Moneys must be used to renovate or expand existing community college facilities, or to acquire land and facilities in close proximity to a community college campus, to accommodate programs that provide home and community-like long-term care settings, including the installation of durable medical equipment such as assistive devices, lifts, and remote technologies. Community colleges eligible to participate in the pilot program must be located in a county with a population of two hundred thousand or more. Priority consideration must be given to community college applicants: (a) With existing allied health care programs; and (b) that can demonstrate tangible commitments to the project by business or other community partners.

(2) This section expires July 1, 2015.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.50 RCW to read as follows:

By December 1, 2014, the state board for community and technical colleges shall file a report with the capital budget and higher education committees of the legislature regarding the pilot program created in section 1 of this act. With respect to each community college pilot site, the report shall include the following:

(1) The number of long-term care workers trained prior to the college's participation in the pilot program and duration or extent of such training;

(2) The number of long-term care workers trained subsequent to the college's participation in the pilot program and duration or extent of such training;

(3) The identity of community and business partners providing tangible commitments to each pilot site, together with a detailed description of those tangible commitments; and

(4) The amount of the grant moneys received, dates of receipt, and a detailed description, including costs, of the renovation, expansion, and acquisitions associated with the grant moneys.

NEW SECTION. **Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act or the omnibus capital appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6804.

Senator Kilmer spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senator Weinstein was excused.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6804.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6804 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6804, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6804, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brown and Weinstein - 2

SUBSTITUTE SENATE BILL NO. 6804, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6805, with the following amendment: 6805-S AMH APP H5893.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that:

(a) Farmers and small forest landowners should be encouraged through the use of incentives to conserve and restore natural areas on their farms and small tree farming operations in ways that improve the long-term viability of these operations by providing ongoing revenue to these operations without taking whole farms or significant amounts of farmland or small tree farming operations out of production;

(b) Farmers and small forest landowners have the ability to produce restoration products as well as implement conservation practices on their productive agricultural lands and small tree farms in a way that is likely to be useful to fulfill the mitigation, compliance, and other environmental needs of public agencies such as the Washington state department of transportation, and to meet other market demands such as the availability of feed or conditions for overwintering of migratory waterfowl or for conserving and enhancing fish and wildlife habitat;

(c) Family farmers and family-owned small tree farming operations currently produce environmental benefits that would cost millions of dollars to replace with man-made infrastructure. Among these benefits are water filtration, floodwater dispersal, fish and wildlife habitat, open spaces, and scenic views;

(d) Other communities in the United States have established conservation markets in which landowners are paid to produce such restoration products; and

(e) The use of such markets could provide much needed income to sustain the viability of Washington farmers and small forest landowners, meet mitigation and compliance needs, accelerate permitting of public infrastructure, and provide environmental benefits.

(2) Therefore, the legislature finds that it is good public policy to evaluate the feasibility and potential effectiveness of conservation markets in Washington state that provide dual benefits of improving the viability of agriculture and providing environmental or fish and wildlife benefits.

NEW SECTION. **Sec. 2.** (1) Subject to the availability of amounts appropriated for this purpose, the commission shall conduct a study to evaluate the feasibility and desirability of establishing farm-based or forest-based conservation markets in Washington. The commission may enter into a contract with an entity that has the knowledge and experience of agriculture and of conservation markets for this effort. The commission, entity, or both shall:

(a) Evaluate other conservation markets in operation in the United States that provide ongoing revenue to improve the long-term viability of family farms and small forestry operations, including those focused on water quality trading, endangered species conservation banking, rental of environmental benefits, and wetland banking, to determine relevant lessons for Washington conservation markets;

(b) Collaborate with Washington farm organizations, small forestry landowner organizations, key farm community leaders, agricultural special purpose districts, local governments, and relevant natural resource agencies to:

(i) Determine interests, needs, and concerns about participating in a conservation market;

(ii) Assess the market-ready environmental maintenance, restoration, and enhancement products that could profitably and dependably be produced on farms and small forestry operations, including endangered species habitat, wetlands, water quality treatment, carbon sequestration, biodiversity, and other fish and wildlife habitat; and

(iii) Identify opportunities for conservation markets that could provide ongoing revenue to improve the long-term viability of family farming and small forestry operations and could supplement existing conservation programs currently used by landowners, such as the conservation reserve enhancement program, and increased use of the public benefit rating system;

(c) Work with the Washington state department of transportation, utility districts, local road departments, and other public agencies to determine potential demand for restoration products produced on farms and small forestry operations to fulfill upcoming mitigation and compliance needs. The underlying analysis shall emphasize demand associated with construction of roads, utilities, and other public structures, as well as periodic repermitting of wastewater and other public utilities;

(d) Forecast market activity, including the potential supply of restoration products, including those produced through existing restoration programs, and the potential demand for such products to address mitigation, compliance, and other environmental needs and other market demands. This analysis shall also identify services, materials, technical assistance, financing, and other support that would facilitate the use of conservation markets;

(e) Consult with the Washington departments of ecology and fish and wildlife, the United States army corps of engineers, and local government permitting agencies to determine their willingness to use farm-produced restoration products to fulfill mitigation and compliance needs and also evaluate changes in rules and policy that would facilitate permitting of conservation market activities;

(f) Consult with the Northwest Indian fisheries commission and individual Indian tribes to determine their interest in and potential support of conservation markets;

(g) Coordinate with the department of agriculture regarding the "Future of Farming" project, the William D. Ruckelshaus Center on its activities relating to chapter 353, Laws of 2007, the office of farmland preservation and the office's efforts to retain farmland in agricultural production, the Washington biodiversity project, the department of ecology regarding its "Mitigation that Works" project, and the office of regulatory assistance on its integrated project review and mitigation project to ensure consistency with these efforts; and

(h) Develop findings and recommendations on the feasibility and desirability of creating farm-based and forest-based conservation markets in Washington state.

(2) If the study determines that farm-based conservation markets are feasible and desirable, the commission, contracting entity, or both, shall conduct two demonstration projects in Washington farm communities. The commission, entity, or both shall:

(a) Select demonstration project areas that have a combination of enthusiastic farmers, a substantial supply of potential restoration products from farms, potential for public and private cost-sharing of project costs, and upcoming development or permitting activity that is likely to trigger significant mitigation and compliance demands;

(b) Identify and map areas of highly productive agricultural activity and work with the departments of ecology and fish and wildlife to identify locations of high-priority wetland and habitat restoration or water quality improvement to ensure that conservation market-driven restoration does not infringe on highly productive farmland;

(c) Identify up to three potential credit transactions in each demonstration project area and work with relevant farmers, permittees, and permitting agencies to facilitate transactions in mitigation and compliance credits;

(d) Work with the department of ecology and other relevant permitting agencies to develop standards for approval of conservation market transactions to fulfill mitigation and compliance requirements and to identify priority areas for focusing conservation market sites based on the highest ecological benefits for the watershed and the restoration of ecosystem processes that minimize impacts to high quality agricultural lands;

(e) Work with conservation districts to determine district interest in participation in a conservation markets program, including a determination of district capacity and resources to participate in such a program;

(f) Evaluate options for facilitating conservation market transactions, including the use of farmer cooperatives, brokerage services, and banks; and

(g) Develop findings on the results of the demonstration projects and the implications for broader use of farm-based conservation markets in Washington state.

(3) As used in this act:

(a) "Commission" means the Washington state conservation commission.

(b) "Conservation market" means a farm or forest-based market for selling credits for wetland or habitat restoration or water quality cleanup to agencies in need of such credits to fulfill environmental mitigation, compliance requirements, and other environmental needs. The term shall also be broadly interpreted to include any program that provides ongoing revenue to sustain the long-term viability of farms and small forestry operations as a result of maintaining or enhancing environmental benefits such as open space, fish and wildlife habitat, floodwater dispersal, water filtration, buffers from more

intense development, or any other environmental benefit resulting from the ongoing operation of the farm.

(c) "Small forest landowner" has the same meaning as in RCW 76.09.450.

(4) The commission shall present findings and recommendations from the conservation markets study to the governor and appropriate committees of the legislature by December 1, 2008. The findings and recommendations shall include:

(a) Findings regarding the match between the availability of farm-produced and forestry-produced restoration products and the demand for such products associated with mitigation and compliance for public agency projects and activities in the demonstration project area;

(b) Findings regarding the interests and capabilities of farmers, small forest landowners, public development agencies, and permitting agencies to participate in the demonstration conservation market;

(c) Findings regarding the likelihood that farm-based and forest-based conservation markets could provide a successful mechanism for addressing mitigation, compliance, and other environmental needs for public construction projects and permitting of public utilities; and

(d) Recommendations on whether to proceed to the initiation of demonstration projects.

(5) If the project proceeds into the demonstration project phase, the commission shall present findings and recommendations regarding the conservation markets' demonstration projects to the governor and appropriate committees of the legislature by December 1, 2009. The findings and recommendations shall include:

(a) Findings on the ability to produce conservation market-ready restoration and clean-up projects without infringing on high-quality farmland;

(b) Findings on standards for review and approval of conservation market transactions in permitting processes;

(c) Findings on potential conservation market transactions in the demonstration project areas;

(d) Recommendations on measures that the Washington state department of transportation and other state agencies can take to facilitate their use of conservation markets to fulfill mitigation and compliance needs and waterfowl or wildlife habitat enhancement goals;

(e) Recommendations on support services that could be provided by state agencies to facilitate conservation markets throughout Washington, including but not limited to financing, permit assistance, technical assistance, materials, and other services.

(6) This section expires December 31, 2009.

NEW SECTION. **Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rasmussen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6805.

Senator Rasmussen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rasmussen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6805.

The motion by Senator Rasmussen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6805 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6805, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6805, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Tom - 1

Excused: Senator Brown - 1

SUBSTITUTE SENATE BILL NO. 6805, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6807, with the following amendment: 6807-S AMH .... KNUT 091

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 18.20 RCW to read as follows:

(1) If a boarding home voluntarily withdraws from participation in a state medicaid program for residential care and services under Chapter 74.39A, but continues to provide services of the type provided by boarding homes the facility's voluntary withdrawal from participation is not an acceptable basis for the transfer or discharge of residents of the facility (a) who were receiving medicaid on the day before the effective date of the withdrawal; or (b) who have been paying the facility privately for at least two years and who become eligible for medicaid within one hundred eighty days of the date of withdrawal.

(2) A boarding home that has withdrawn from the state medicaid program for residential care and services under Chapter 74.39A, must provide the following oral and written notices to prospective residents. The written notice must be prominent and must be written on a page that is separate from the other admission documents. The notice shall provide that:

(a) The facility will not participate in the medicaid program with respect to that resident; and

(b) The facility may transfer or discharge the resident from the facility for nonpayment, even if the resident becomes eligible for medicaid.

(3) Notwithstanding any other provision of this section, the medicaid contract under Chapter 74.39A RCW that exists on the day the facility withdraws from Medicaid participation is deemed to continue in effect as to the persons described in subsection (1) for the purposes of :

(a) Department payments for the residential care and services provided to such persons;

(b) Maintaining compliance with all requirements of the

medicaid contract between the department and the facility; and

(c) Ongoing inspection, contracting, and enforcement authority under the medicaid contract, regulations, and law.

(4) Except as provided in subsections (1) of this section, this section shall not apply to a person who begins residence in a facility on or after the effective date of the facility's withdrawal from participation in the medicaid program for residential care and services.

(5) A boarding home that is providing residential care and services under Chapter 74.39A shall give the department and its residents sixty days advance notice of the facility's intent to withdraw from participation in the medicaid program.

(6) (a) Prior to admission to the facility, a boarding home participating in the state medicaid program for residential care and services under Chapter 74.39A must provide the following oral and written notices to prospective residents. The written notice must be prominent and must be written on a page that is separate from the other admission documents, and must provide that:

(i) In the future, the facility may choose to withdraw from participating in the medicaid program;

(ii) If the facility withdraws from the medicaid program, it will continue to provide services to residents (A) who were receiving medicaid on the day before the effective date of the withdrawal; or (B) who have been paying the facility privately for at least two years and who will become eligible for medicaid within one hundred eighty days of the date of withdrawal;

(iii) After a facility withdraws from the medicaid program, it may transfer or discharge residents who do not meet the criteria described in this subsection (a) for nonpayment, even if the resident becomes eligible for medicaid.

Sec. 2. RCW 70.129.110 and 1997 c 392 s 205 are each amended to read as follows:

(1) The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:

(a) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;

(b) The safety of individuals in the facility is endangered;

(c) The health of individuals in the facility would otherwise be endangered;

(d) The resident has failed to make the required payment for his or her stay; or

(e) The facility ceases to operate.

(2) All long-term care facilities shall fully disclose to potential residents or their legal representative the service capabilities of the facility prior to admission to the facility. If the care needs of the applicant who is medicaid eligible are in excess of the facility's service capabilities, the department shall identify other care settings or residential care options consistent with federal law.

(3) All long-term care facilities shall fully disclose in writing to residents and potential residents or their legal representative the facility policy on accepting medicaid as a payment source. The policy shall clearly and plainly state the circumstances under which the facility will care for persons who are eligible for medicaid upon admission or who may later become eligible for medicaid. Disclosure must be provided prior to admission, and the facility must retain a copy of the disclosure signed by the resident or their legal representative. The facility policy on medicaid as a payment source as of the date of the resident's admission to the facility shall be considered a legally binding contract between the resident and the facility.

(((3)))(4) Before a long-term care facility transfers or discharges a resident, the facility must:

(a) First attempt through reasonable accommodations to avoid the transfer or discharge, unless agreed to by the resident;

(b) Notify the resident and representative and make a reasonable effort to notify, if known, an interested family member of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand;

(c) Record the reasons in the resident's record; and

(d) Include in the notice the items described in subsection (((5)))(6) of this section.

(((4)))(5)(a) Except when specified in this subsection, the notice of transfer or discharge required under subsection (((3)))(4) of this section must be made by the facility at least thirty days before the resident is transferred or discharged.

(b) Notice may be made as soon as practicable before transfer or discharge when:

(i) The safety of individuals in the facility would be endangered;

(ii) The health of individuals in the facility would be endangered;

(iii) An immediate transfer or discharge is required by the resident's urgent medical needs; or

(iv) A resident has not resided in the facility for thirty days.

(((5)))(6) The written notice specified in subsection (((3)))(4) of this section must include the following:

(a) The reason for transfer or discharge;

(b) The effective date of transfer or discharge;

(c) The location to which the resident is transferred or discharged;

(d) The name, address, and telephone number of the state long-term care ombudsman;

(e) For residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under part C of the developmental disabilities assistance and bill of rights act; and

(f) For residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the protection and advocacy for mentally ill individuals act.

(((6)))(7) A facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

(((7)))(8) A resident discharged in violation of this section has the right to be readmitted immediately upon the first availability of a gender-appropriate bed in the facility.

NEW SECTION. **Sec. 3.** 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, except for section 2 which applies retroactively to September 1, 2007."

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6807.

Senators Kastama and Pflug spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6807.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6807 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6807, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6807, 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, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Voting nay: Senators McCaslin and Morton - 2

Excused: Senator Brown - 1

SUBSTITUTE SENATE BILL NO. 6807, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6874, with the following amendment: 6874-S2.E AMH ENGR H5875.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 90.90 RCW to read as follows:

(1) In 2006, the legislature enacted chapter 6, Laws of 2006, an act relating to water resource management in the Columbia river basin. In its enactment, the legislature established that a key priority of water resource management in the Columbia river basin is the development of new water supplies to meet economic and community development needs concurrent with instream flow needs.

(2) Consistent with this intent, the governor and the legislature are in agreement with the Confederated Tribes of the Colville Reservation and the Spokane Tribe of Indians to support additional releases of water from Lake Roosevelt. Because the sovereign and proprietary interests of these tribal governments are directly affected by water levels in Lake Roosevelt, the state intends to share a portion of the benefits derived from Lake Roosevelt water releases and to mitigate for any impacts such releases may have upon the tribes.

(3) These new releases of Lake Roosevelt water of approximately eighty-two thousand five hundred acre feet of water, increasing to no more than one hundred thirty-two thousand five hundred acre feet of water in drought years, will bolster the state economy and will meet the following critical needs: New surface water supplies for farmers to replace the use of diminishing groundwater in the Odessa aquifer; new water supplies for municipalities with pending water right applications; enhanced certainty for agricultural water users with water rights that are interruptible during times of drought; and water to increase flows in the river when salmon need it most.

(4) Nothing in chapter . . . , Laws of 2008 (this act) expands, impairs, or otherwise affects the existing status and sovereignty of the tribal governments involved in Lake Roosevelt water releases pursuant to this section and section 2 of this act.

NEW SECTION. **Sec. 2.** A new section is added to chapter 90.90 RCW to read as follows:

(1) The Columbia river water delivery account is created in the state treasury. Moneys in the account may be spent only after appropriation. The account consists of all moneys transferred or appropriated to the account by law. The legislature may appropriate moneys in the account:

(a) For distributions for purposes of section 1 of this act as provided in this section; and

(b) To the department of ecology for other purposes relating to implementation of sections 1 and 3 of this act.

(2) On July 1, 2008, and each July 1st thereafter for the duration of the agreements described in section 1 of this act, the state treasurer shall transfer moneys from the general fund into the Columbia river water delivery account in the amounts described in subsection (3) of this section.

(3) Subject to appropriations, on July 1, 2008, and each July 1st thereafter, the state treasurer shall distribute moneys from the Columbia river water delivery account as follows:

(a) To the Confederated Tribes of the Colville Reservation, on July 1, 2008, the sum of three million seven hundred seventy-five thousand dollars; and on July 1, 2009, the sum of three million six hundred twenty-five thousand dollars. Each July 1st thereafter for the duration of the agreement, the treasurer shall distribute an amount equal to the previous year's distribution adjusted for inflation. The inflation adjustment shall be computed using the percentage change on the implicit price deflator for personal consumption expenditures for the United States for the previous calendar year, as compiled by the bureau of economic analysis of the United States department of commerce and reported in the most recent quarterly publication of the economic and revenue forecast council or successor agency.

(b) To the Spokane Tribe of Indians, on July 1, 2008, the sum of two million two hundred fifty thousand dollars. Each July 1st thereafter for the duration of the agreement, the treasurer shall distribute an amount equal to the previous year's distribution adjusted for inflation. The inflation adjustment shall be computed using the percentage change in the consumer price index for the Washington state Seattle-Tacoma-Bremerton consolidated metropolitan statistical area for the previous calendar year as compiled by the bureau of labor statistics, United States department of labor, and reported in the most recent quarterly publication of the economic and revenue forecast council or successor agency.

(4) The state treasurer may not distribute moneys from the Columbia river water delivery account to a tribe pursuant to this section unless the director of ecology has certified in writing to the state treasurer and the legislature that the agreement with the tribes is still in effect.

NEW SECTION. **Sec. 3.** A new section is added to chapter 90.90 RCW to read as follows:

(1) Because the potential impacts of water releases under agreements reached under this chapter on affected counties are unknown, the department of ecology shall, by November 15, 2009:

(a) Conduct an assessment of the potential impacts, including recommendations for mitigation, and report to appropriate committees of the legislature; and

(b) Establish a process for identifying and reporting on future impacts on the affected counties, and for making recommendations for mitigation.

(2) Within the framework of Columbia river basin water resources management under this chapter, the department of ecology shall:

(a) Provide technical assistance to help affected counties identify and develop competitive project applications to benefit both instream and out-of-stream uses;

(b) Assist affected counties in exploring options to ensure water resources are available for their current and future needs. Such options include pursuing a memorandum of understanding with the affected counties that is consistent with RCW 90.90.005 to effectuate the purposes of this section. The memorandum of understanding shall be available for public comment for a period of thirty days before being signed by the department; and

(c) Consider regional equity when making funding decisions on water supply applications.

(3) As used in this section, "affected counties" means those counties east of the crest of the Cascade mountains with an international border, or those counties east of the crest of the Cascade mountains that border both a county with an international border and a county with four hundred thousand or more residents.

NEW SECTION. **Sec. 4.** This act takes effect July 1, 2008.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6874.

Senator Prentice spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Prentice that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6874.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6874 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6874, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6874, 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, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6874, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

REPORTS OF STANDING COMMITTEES

March 10, 2008

SB 6657 Prime Sponsor, Senator Murray: Including salary bonuses for individuals certified by the national board for professional teaching standards as earnable compensation. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Hatfield; Keiser; Kohl-Welles; Oemig; Rasmussen; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Zarelli.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette; Roach and Schoesler.

Passed to Committee on Rules for second reading.

March 10, 2008

SHB 2585 Prime Sponsor, Committee on Finance: Concerning the business and occupation taxation of newspaper-labeled supplements. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Zarelli; Brandland; Carrell; Hatfield; Hewitt; Hobbs; Keiser; Kohl-Welles; Oemig; Parlette; Rasmussen; Roach; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 10, 2008

EHB 3360 Prime Sponsor, Representative Hasegawa: Increasing the availability of funds for the time certificate of deposit investment program. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Zarelli; Hatfield; Hobbs; Keiser; Kohl-Welles; Parlette; Rasmussen; Regala; Roach; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 10, 2008

SHB 3374 Prime Sponsor, Committee on Capital Budget: Concerning state general obligation bonds for flood mitigation and facilities for career and technical education. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Hatfield; Hewitt; Hobbs; Honeyford; Keiser; Kohl-Welles; Oemig; Rasmussen; Regala; Roach and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 10, 2008

HB 3375 Prime Sponsor, Representative Alexander: Appropriating funds for catastrophic flood relief. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Hatfield; Hewitt; Hobbs; Honeyford; Keiser; Kohl-Welles; Oemig; Parlette; Rasmussen; Regala; Roach; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 10, 2008

ESHCR 4408 Prime Sponsor, Committee on Higher Education: Requesting approval of the statewide strategic master plan for higher education. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Zarelli; Brandland; Carrell; Hatfield; Hewitt; Honeyford; Keiser; Kohl-Welles; Oemig; Parlette; Rasmussen; Regala; Roach; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6932, with the following amendment: 6932-S AMH ROLF BERN 057 & 6932-S AMH SMIN BERN 058

On page 4, after line 29, insert the following:

"NEW SECTION. **Sec.6.** RCW 47.60.385 and 2007 c 512 s 14 are each amended 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.

(h) When planning for new vessel acquisitions, the department must evaluate the long-term vessel operating costs related to fuel efficiency and staffing."

Correct the title.

On page 4, after line 29, insert the following:

"NEW SECTION. **Sec. 6**. RCW 47.60.335 and 2007 c 512 s 9 are each amended 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.

(4) The vessel emergency repair budget may not be used for planned maintenance and inspections of inactive vessels."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Murray moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6932.

Senator Murray spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Murray that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6932.

The motion by Senator Murray carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6932 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6932, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6932, as amended by the House, 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, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Absent: Senator Hargrove - 1

SUBSTITUTE SENATE BILL NO. 6932, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6933 with the following amendment:
6933-S AMH JUDI ZARO 019 and 6933-S AMH JUDI ZARO 021.

On page 2, line 33, after "conviction;" strike "and"

On page 2, line 34, after "(g)" insert "Whether the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence; and
(h)"

On page 2, beginning on line 35, after **"Sec. 3."** strike all material through "(2)" on page 3, line 1
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Marr moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6933.

Senator Marr spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Marr that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6933.

The motion by Senator Marr carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6933 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6933, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6933, 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, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Zarelli - 47

Absent: Senators Brown and Weinstein - 2

SUBSTITUTE SENATE BILL NO. 6933, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Senator Brown was excused.

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6941, with the following amendment: 6941 AMH ENVH H5761.1

On page 1, line 18, after "awards" strike "shall" and insert "((~~shall~~)) may"

Beginning on page 1, line 19, after "be" strike all material through "nor" on page 2, line 1, and insert "((~~a sum of not less than two thousand dollars nor~~)) no"

On page 2, line 4, after "dollars" strike "shall" and insert "((~~shall~~)) may"

On page 2, line 7, after "dollars" strike "shall" and insert "((~~shall~~)) may"
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Eide moved that the Senate concur in the House amendment(s) to Senate Bill No. 6941.

The President declared the question before the Senate to be the motion by Senator Eide that the Senate concur in the House amendment(s) to Senate Bill No. 6941.

The motion by Senator Eide carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6941 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6941, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6941, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Brown - 1

SENATE BILL NO. 6941, 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 Delvin, Senator McCaslin was excused.

MOTION

At 1:55 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:12 p.m. by President Owen.

MESSAGE FROM THE HOUSE

March 10, 2008

MR. PRESIDENT:
The Speaker has signed the following bills:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5179,
SUBSTITUTE SENATE BILL NO. 5256,
SUBSTITUTE SENATE BILL NO. 6060,
SUBSTITUTE SENATE BILL NO. 6181,
SENATE BILL NO. 6196,
SENATE BILL NO. 6216,
SUBSTITUTE SENATE BILL NO. 6224,
SENATE BILL NO. 6237,
SUBSTITUTE SENATE BILL NO. 6246,
SENATE BILL NO. 6267,
SUBSTITUTE SENATE BILL NO. 6273,
SENATE BILL NO. 6275,
SUBSTITUTE SENATE BILL NO. 6343,
SENATE BILL NO. 6369,
SENATE BILL NO. 6398,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6437,
SENATE BILL NO. 6471,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6532,
SUBSTITUTE SENATE BILL NO. 6572,
SENATE BILL NO. 6588,
ENGROSSED SENATE BILL NO. 6641,
ENGROSSED SENATE BILL NO. 6663,
SENATE BILL NO. 6677,
SUBSTITUTE SENATE BILL NO. 6710,
SENATE BILL NO. 6717,
SENATE BILL NO. 6740,
SUBSTITUTE SENATE BILL NO. 6791,
SENATE BILL NO. 6799,
SUBSTITUTE SENATE BILL NO. 6847,
SUBSTITUTE SENATE BILL NO. 6857,
SUBSTITUTE SENATE BILL NO. 6879,
SENATE BILL NO. 6885,
SENATE JOINT MEMORIAL NO. 8024,
SENATE JOINT MEMORIAL NO. 8028,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 10, 2008

MR. PRESIDENT:

The Speaker has signed the following bills:

ENGROSSED HOUSE BILL NO. 1283,
HOUSE BILL NO. 1391,
HOUSE BILL NO. 1493,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1623,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1865,
HOUSE BILL NO. 2137,
HOUSE BILL NO. 2283,
SUBSTITUTE HOUSE BILL NO. 2431,
HOUSE BILL NO. 2448,
ENGROSSED HOUSE BILL NO. 2459,
SUBSTITUTE HOUSE BILL NO. 2475,
HOUSE BILL NO. 2499,
HOUSE BILL NO. 2540,
SUBSTITUTE HOUSE BILL NO. 2560,
HOUSE BILL NO. 2564,
SUBSTITUTE HOUSE BILL NO. 2575,
SUBSTITUTE HOUSE BILL NO. 2580,
HOUSE BILL NO. 2594,
HOUSE BILL NO. 2650,
SUBSTITUTE HOUSE BILL NO. 2661,
HOUSE BILL NO. 2699,
HOUSE BILL NO. 2700,
SUBSTITUTE HOUSE BILL NO. 2727,
HOUSE BILL NO. 2762,
SUBSTITUTE HOUSE BILL NO. 2770,
SUBSTITUTE HOUSE BILL NO. 2823,
HOUSE BILL NO. 2825,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2847,
SECOND SUBSTITUTE HOUSE BILL NO. 2870,
SUBSTITUTE HOUSE BILL NO. 2879,
SUBSTITUTE HOUSE BILL NO. 2885,
SUBSTITUTE HOUSE BILL NO. 2893,
SUBSTITUTE HOUSE BILL NO. 2902,
SECOND SUBSTITUTE HOUSE BILL NO. 2903,
HOUSE BILL NO. 2949,
HOUSE BILL NO. 2955,
SUBSTITUTE HOUSE BILL NO. 2959,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2996,
HOUSE BILL NO. 2999,
SUBSTITUTE HOUSE BILL NO. 3002,
HOUSE BILL NO. 3011,
HOUSE BILL NO. 3019,
HOUSE BILL NO. 3024,
SUBSTITUTE HOUSE BILL NO. 3071,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 3122,
SUBSTITUTE HOUSE BILL NO. 3126,
HOUSE BILL NO. 3200,
SUBSTITUTE HOUSE BILL NO. 3224,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5905, with the following amendment: 5905-S.E2 AMH MORE MATC 049

On page 2, line 7, after "(b)" strike all material through "(e)" on line 28.

On page 2, line 37, insert the following:

"(c)In processing and approving certificates of capital authorization filed with the department in accordance with subsection (2)(b) of this section, the department shall give priority approval in the following order:

(i)First priority shall be given to applications for renovation or replacement on existing facilities that incorporate innovative building designs, such as the green house model or other models that create more home-like settings. Of these applications, preference shall be given to the greatest length of time since the last major renovation or construction.

(ii)Second priority shall be given to renovations of existing facilities with the greatest length of time since their last major renovation or construction.

(iii) Third priority shall be given to replacements of existing facilities with the greatest length of time since their last major renovation or construction.

(iv) Last priority shall be given to new facilities and shall be processed on a first-come, first served basis.

(d) Within the priorities established by this section, applications for certificates of capital authorization that do not receive approval in one state fiscal year because that year's authorization limit has been reached shall have priority the following fiscal year if the applications are resubmitted."

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Franklin moved that the Senate refuse to concur in the House amendment(s) to Second Engrossed Substitute Senate

Bill No. 5905 and ask the House to recede therefrom.

Senators Franklin spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Franklin that the Senate refuse to concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 5905 and ask the House to recede therefrom.

The motion by Senator Franklin carried and the Senate refused to concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 5905 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

March 7, 2008

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6332, with the following amendment: 6332 AMH ORMS H5988.5

On page 1, after line 3, insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that nonprofit entities have difficulty accessing and competing for tax exempt multifamily bonds issued by the Washington state housing finance commission. In order to facilitate the use of the bonds by nonprofit entities, which will increase the availability and inventory of low-income housing, the legislature intends to provide more opportunities to increase the financial capacity of nonprofit low-income housing developers that have less ability to access the tax-exempt bond program than for-profit housing developers. The legislature finds that to meet these goals, the bond debt capacity of the Washington state housing finance commission should be increased, contingent upon the prioritization of nonprofit housing developers in accessing the program, broader objectives to promote housing density and long-term affordability, and assistance to nonprofit low-income housing developers to increase financial capacity, and therefore ability, to access the program."

Renumber the remaining section consecutively, correct any internal references accordingly, and correct the title.

On page 1, at the beginning of line 6, insert "(1)"

On page 1, after line 15, insert the following:

"(2) The debt limit established in subsection (1) of this section is increased to six billion five hundred million dollars only if sections 2 through 6 of this act take effect by June 30, 2008.

Sec. 2. RCW 43.180.050 and 1986 c 264 s 1 are each amended to read as follows:

(1) In addition to other powers and duties prescribed in this chapter, and in furtherance of the purposes of this chapter to provide decent, safe, sanitary, and affordable housing for eligible persons, the commission is empowered to:

(a) Issue bonds in accordance with this chapter;

(b) Invest in, purchase, or make commitments to purchase or take assignments from mortgage lenders of mortgages or mortgage loans;

(c) Make loans to or deposits with mortgage lenders for the purpose of making mortgage loans; and

(d) Participate fully in federal and other governmental programs and to take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs and to meet their requirements, including such actions as the commission considers appropriate in order to have the interest payments on its bonds and other obligations treated as tax exempt under the code.

(2) The commission shall establish eligibility standards for eligible persons, considering at least the following factors:

(a) Income;

(b) Family size;

(c) Cost, condition and energy efficiency of available residential housing;

(d) Availability of decent, safe, and sanitary housing;

(e) Age or infirmity; and

(f) Applicable federal, state, and local requirements.

The state auditor shall audit the books, records, and affairs of the commission annually to determine, among other things, if the use of bond proceeds complies with the general plan of housing finance objectives including compliance with the objective for the use of financing assistance ((~~for implementation of cost-effective energy efficiency measures in dwellings~~)) to increase the supply of affordable and decent housing throughout the state.

Sec. 3. RCW 43.180.070 and 1999 c 372 s 11 and 1999 c 131 s 1 are each reenacted and amended to read as follows:

The commission shall adopt a general plan of housing finance objectives to be implemented by the commission during the period of the plan. The commission may exercise the powers authorized under this chapter prior to the adoption of the initial plan. In developing the plan, the commission shall consider and set objectives for:

(1) The use of funds for single-family and multifamily housing;

(2) The use of funds to promote increased housing density;

(3) The use of funds to promote the provision of affordable housing for the longest period of time possible;

(4) The use of funds for new construction, rehabilitation, including refinancing of existing debt, and home purchases;

((~~(3)~~)) (5) The housing needs of low-income and moderate-income persons and families, and of elderly persons or ((~~mentally or physically handicapped~~)) persons with disabilities or mental illness;

((~~(4)~~)) (6) The use of funds in coordination with federal, state, and local housing programs for low-income persons;

((~~(5)~~)) (7) The use of funds in urban, rural, suburban, and special areas of the state;

((~~(6)~~)) (8) The use of financing assistance to stabilize and upgrade declining urban neighborhoods;

((~~(7)~~)) (9) The use of financing assistance for economically depressed areas, areas of minority concentration, reservations, and in mortgage-deficient areas;

((~~(8)~~)) (10) The geographical distribution of bond proceeds so that the benefits of the housing programs provided under this chapter will be available to address demand on a fair basis throughout the state;

((~~(9)~~)) (11) The use of financing assistance for implementation of cost-effective energy efficiency measures in dwellings.

The plan shall include an estimate of the amount of bonds the commission will issue during the term of the plan and how bond proceeds will be expended.

The plan shall be adopted by resolution of the commission following at least one public hearing thereon, notice of which shall be made by mailing to the clerk of the governing body of each county and by publication in the Washington State Register no more than forty and no less than twenty days prior to the hearing. A draft of the plan shall be made available not less than thirty days prior to any such public hearing. ((~~At least every two years,~~)) The commission shall report to the legislature annually regarding implementation of the plan. The commission shall update the plan every two years.

((~~The commission may periodically update the plan.~~))

The commission shall adopt rules designed to result in the use of bond proceeds in a manner consistent with the plan. The commission may periodically update its rules.

This section is designed to deal only with the use of bond proceeds and nothing in this section shall be construed as a limitation on the commission's authority to issue bonds.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.180 RCW to read as follows:

The commission must adopt program guidelines to ensure that qualified applications submitted by nonprofit entities are

given priority for the use of tax exempt bonds issued under this chapter for multifamily affordable housing developments.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.185 RCW to read as follows:

The equity program is created in the department to facilitate nonprofit entity use of tax-exempt multifamily bonds issued by the Washington state housing finance commission. The department shall contract with the Washington state housing finance commission to administer the equity program. By December 31, 2008, and annually thereafter, the Washington state housing finance commission must report to the appropriate committees of the legislature, using performance measures, on the activities and accomplishments of the program.

Sec. 6. RCW 84.36.560 and 2007 c 301 s 1 are each amended to read as follows:

(1) The real and personal property owned or used by a nonprofit entity in providing rental housing for very low-income households or used to provide space for the placement of a mobile home for a very low-income household within a mobile home park is exempt from taxation if:

(a) The benefit of the exemption inures to the nonprofit entity;

(b) At least seventy-five percent of the occupied dwelling units in the rental housing or lots in a mobile home park are occupied by a very low-income household; and

(c) The rental housing or lots in a mobile home park were insured, financed, or assisted in whole or in part through one or more of the following sources:

(i) A federal or state housing program administered by the department of community, trade, and economic development;

(ii) A federal housing program administered by a city or county government;

(iii) An affordable housing levy authorized under RCW 84.52.105; or

(iv) The surcharges authorized by RCW 36.22.178 and 36.22.179 and any of the surcharges authorized in chapter 43.185C RCW.

(2) If less than seventy-five percent of the occupied dwelling units within the rental housing or lots in the mobile home park are occupied by very low-income households, the rental housing or mobile home park is eligible for a partial exemption on the real property and a total exemption of the housing's or park's personal property as follows:

(a) A partial exemption shall be allowed for each dwelling unit in the rental housing or for each lot in a mobile home park occupied by a very low-income household.

(b) The amount of exemption shall be calculated by multiplying the assessed value of the property reasonably necessary to provide the rental housing or to operate the mobile home park by a fraction. The numerator of the fraction is the number of dwelling units or lots occupied by very low-income households as of December 31st of the first assessment year in which the rental housing or mobile home park becomes operational or on January 1st of each subsequent assessment year for which the exemption is claimed. The denominator of the fraction is the total number of dwelling units or lots occupied as of December 31st of the first assessment year the rental housing or mobile home park becomes operational and January 1st of each subsequent assessment year for which exemption is claimed.

(3) If a currently exempt rental housing unit in a facility with ten units or fewer or mobile home lot in a mobile home park with ten lots or fewer was occupied by a very low-income household at the time the exemption was granted and the income of the household subsequently rises above ((~~fifty percent~~)) the very low-income household threshold of the median income but remains at or below eighty percent of the median income, the exemption will continue as long as the housing continues to meet the certification requirements of a very low-income housing program listed in subsection (1) of this section. For purposes of this section, median income, as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located, shall be adjusted for family size. However, if a dwelling unit or a lot becomes vacant and is subsequently rerented, the income of the new household must be at or below ((~~fifty percent~~)) the very low-income household threshold of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located to remain exempt from property tax.

(4) If at the time of initial application the property is unoccupied, or subsequent to the initial application the property is unoccupied because of renovations, and the property is not currently being used for the exempt purpose authorized by this section but will be used for the exempt purpose within two assessment years, the property shall be eligible for a property tax exemption for the assessment year in which the claim for exemption is submitted under the following conditions:

(a) A commitment for financing to acquire, construct, renovate, or otherwise convert the property to provide housing for very low-income households has been obtained, in whole or in part, by the nonprofit entity claiming the exemption from one or more of the sources listed in subsection (1)(c) of this section;

(b) The nonprofit entity has manifested its intent in writing to construct, remodel, or otherwise convert the property to housing for very low-income households; and

(c) Only the portion of property that will be used to provide housing or lots for very low-income households shall be exempt under this section.

(5) To be exempt under this section, the property must be used exclusively for the purposes for which the exemption is granted, except as provided in RCW 84.36.805.

(6) The nonprofit entity qualifying for a property tax exemption under this section may agree to make payments to the city, county, or other political subdivision for improvements, services, and facilities furnished by the city, county, or political subdivision for the benefit of the rental housing. However, these payments shall not exceed the amount last levied as the annual tax of the city, county, or political subdivision upon the property prior to exemption.

(7) As used in this section:

(a) "Group home" means a single-family dwelling financed, in whole or in part, by one or more of the sources listed in subsection (1)(c) of this section. The residents of a group home shall not be considered to jointly constitute a household, but each resident shall be considered to be a separate household occupying a separate dwelling unit. The individual incomes of the residents shall not be aggregated for purposes of this exemption;

(b) "Mobile home lot" or "mobile home park" means the same as these terms are defined in RCW 59.20.030;

(c) "Occupied dwelling unit" means a living unit that is occupied by an individual or household as of December 31st of the first assessment year the rental housing becomes operational or is occupied by an individual or household on January 1st of each subsequent assessment year in which the claim for exemption is submitted. If the housing facility is comprised of three or fewer dwelling units and there are any unoccupied units on January 1st, the department shall base the amount of the exemption upon the number of occupied dwelling units as of December 31st of the first assessment year the rental housing becomes operational and on May 1st of each subsequent assessment year in which the claim for exemption is submitted;

(d) "Rental housing" means a residential housing facility or group home that is occupied but not owned by very low-income households;

(e) "Very low-income household" means: (i) A single person, family, or unrelated persons living together whose income is at or below fifty percent of the median income adjusted for family size as most recently determined by the

federal department of housing and urban development for the county in which the rental housing or mobile home space is located and in effect as of January 1st of the year the application for exemption is submitted; or (ii) for properties that have received assistance from the equity program created in section 5 of this act, a single person, family, or unrelated persons living together whose income is at or below sixty percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home space is located and in effect as of January 1st of the year the application for exemption is submitted; and

(f) "Nonprofit entity" means a:

(i) Nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code;

(ii) Limited partnership where a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority created under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210(2)(a) is a general partner; or

(iii) Limited liability company where a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority established under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210(2)(a) is a managing member."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Weinstein moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 6332 and ask the House to recede therefrom.

POINT OF ORDER

Senator Honeyford: "Mr. President, I believe the House amendment is outside the scope and object of the underlying bill and I have some arguments to offer on this Mr. President. Thank you Mr. President. The underlying bill did one thing and one thing only. It increased Housing Finance Commission debt up to 4.5 billion to 6.5 billion. This is reflected in the title; 'An Act relating to an increase of debt from housing finance commission.' The House amendment goes far beyond the underline bill. Amongst the new items are; additional objectives for the housing finance commission plan to increasing housing density; directing non profits for priority for the use of tax bonds; creating new equity loan program; changing the statutory income threshold for a non-profit tax exemption. Mr. President, these items were in Engrossed Second Substitute House Bill No. 3180 which was not passed off the Senate floor before cut off. The House in a floor amendment yesterday, adds those provisions to Senate Bill No. 6332. Because this amendment is beyond the scope and object of the underlying bill, Mr. President, I ask that you rule the amendment is out of order."

Senator Weinstein spoke in favor of the point of order.

MOTION

On motion of Senator Eide, further consideration of Senate Bill No. 6332 was deferred and the bill held its place on the concurrence calendar.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6404, with the following amendment: 6404-S AMH HCW H5787.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 71.24 RCW to read as follows:

In the event that an existing regional support network will no longer be contracting to provide services, it is the intent of the legislature to provide flexibility to the department to facilitate a stable transition which avoids disruption of services to consumers and families, maximizes efficiency and public safety, and maintains the integrity of the public mental health system. By granting this authority and flexibility, the legislature finds that the department will be able to maximize purchasing power within allocated resources and attract high quality organizations with optimal infrastructure to perform regional support network functions through competitive procurement processes. The legislature intends for the department of social and health services to partner with political subdivisions and other entities to provide quality, coordinated, and integrated services to address the needs of individuals with behavioral health needs.

Sec. 2. RCW 71.24.025 and 2007 c 414 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) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Available resources" means funds appropriated for the purpose of providing community mental health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other mental health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(3) "Child" means a person under the age of eighteen years.

(4) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial

gainful activity" shall be defined by the department by rule consistent with Public Law 92-603, as amended.

(5) "Clubhouse" means a community-based program that provides rehabilitation services and is certified by the department of social and health services.

(6) "Community mental health program" means all mental health services, activities, or programs using available resources.

(7) "Community mental health service delivery system" means public or private agencies that provide services specifically to persons with mental disorders as defined under RCW 71.05.020 and receive funding from public sources.

(8) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by regional support networks.

(9) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(10) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this subsection which have entered into an agreement to provide a community mental health program.

(11) "Department" means the department of social and health services.

(12) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter.

(13) "Emerging best practice" or "promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

(14) "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.

(15) "Licensed service provider" means an entity licensed according to this chapter or chapter 71.05 RCW or an entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department, that meets state minimum standards or persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(16) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(17) "Mental health services" means all services provided by regional support networks and other services provided by the state for persons who are mentally ill.

(18) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (4), (27), and (28) of this section.

(19) "Recovery" means the process in which people are able to live, work, learn, and participate fully in their communities.

(20) "Regional support network" means a county authority or group of county authorities or other ((~~nonprofit~~)) entity recognized by the secretary in contract in a defined region.

(21) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness.

(22) "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.

(23) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the regional support network to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, boarding homes, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(24) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(25) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined solely by a regional support network to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated mental health professionals, evaluation and treatment facilities, and others as determined by the regional support network.

(26) "Secretary" means the secretary of social and health services.

(27) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(28) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the regional support network to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(29) "State minimum standards" means minimum requirements established by rules adopted by the secretary and necessary to implement this chapter for: (a) Delivery of mental health services; (b) licensed service providers for the provision of mental health services; (c) residential services; and (d) community support services and resource management services.

(30) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

(31) "Tribal authority," for the purposes of this section and RCW 71.24.300 only, means: The federally recognized Indian tribes and the major Indian organizations recognized by the secretary insofar as these organizations do not have a financial relationship with any regional support network that would present a conflict of interest.

Sec. 3. RCW 71.24.035 and 2007 c 414 s 2, 2007 c 410 s 8, and 2007 c 375 s 12 are each reenacted and amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary shall provide for public, client, and licensed service provider participation in developing the state mental health program, developing contracts with regional support networks, and any waiver request to the federal government under medicaid.

(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the regional support network if the regional support network fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045, until such time as a new regional support network is designated under RCW 71.24.320.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates regional biennial needs assessments and regional mental health service plans and state services for adults and children with mental illness. The secretary shall also develop a six-year state mental health plan;

(b) Assure that any regional or county community mental health program provides access to treatment for the region's residents, including parents who are defendants in dependency cases, in the following order of priority: (i) Persons with acute mental illness; (ii) adults with chronic mental illness and children who are severely emotionally disturbed; and (iii) persons who are seriously disturbed. Such programs shall provide:

(A) Outpatient services;

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

(C) Day treatment for persons with mental illness which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related services, that result in persons with mental illness becoming engaged in meaningful and gainful full or part-time work. Other sources of funding such as the division of vocational rehabilitation may be utilized by the secretary to maximize federal funding and provide for integration of services;

(F) Consultation and education services; and

(G) Community support services;

(c) Develop and adopt rules establishing state minimum standards for the delivery of mental health services pursuant to RCW 71.24.037 including, but not limited to:

(i) Licensed service providers. These rules shall permit a county-operated mental health program to be licensed as a service provider subject to compliance with applicable statutes and rules. The secretary shall provide for deeming of compliance with state minimum standards for those entities accredited by recognized behavioral health accrediting bodies recognized and having a current agreement with the department;

(ii) Regional support networks; and

(iii) Inpatient services, evaluation and treatment services and facilities under chapter 71.05 RCW, resource management services, and community support services;

(d) Assure that the special needs of persons who are minorities, elderly, disabled, children, low-income, and parents who are defendants in dependency cases are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards ((~~and~~)), RCW 71.24.320((~~,~~)) and 71.24.330((~~, and 71.24.3201~~)), which shall be used in contracting with regional support networks. The standard contract shall include a maximum fund balance, which shall be consistent with that required by federal regulations or waiver stipulations;

(f) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of regional support networks and licensed service providers. The audit procedure shall focus on the outcomes of service and not the processes for accomplishing them;

(g) Develop and maintain an information system to be used by the state and regional support networks that includes a tracking method which allows the department and regional support networks to identify mental health clients' participation in any mental health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

(h) License service providers who meet state minimum standards;

(i) Certify regional support networks that meet state minimum standards;

(j) Periodically monitor the compliance of certified regional support networks and their network of licensed service providers for compliance with the contract between the department, the regional support network, and federal and state rules at reasonable times and in a reasonable manner;

(k) Fix fees to be paid by evaluation and treatment centers to the secretary for the required inspections;

(l) Monitor and audit regional support networks and licensed service providers as needed to assure compliance with contractual agreements authorized by this chapter;

(m) Adopt such rules as are necessary to implement the department's responsibilities under this chapter;

(n) Assure the availability of an appropriate amount, as determined by the legislature in the operating budget by amounts appropriated for this specific purpose, of community-based, geographically distributed residential services;

(o) Certify crisis stabilization units that meet state minimum standards; and

(p) Certify clubhouses that meet state minimum standards.

(6) The secretary shall use available resources only for regional support networks, except to the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act.

(7) Each certified regional support network and licensed service provider shall file with the secretary, on request, such data, statistics, schedules, and information as the secretary reasonably requires. A certified regional support network or licensed service provider which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may have its certification or license revoked or suspended.

(8) The secretary may suspend, revoke, limit, or restrict a certification or license, or refuse to grant a certification or license for failure to conform to: (a) The law; (b) applicable rules and regulations; (c) applicable standards; or (d) state minimum standards.

(9) The superior court may restrain any regional support network or service provider from operating without certification or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(10) Upon petition by the secretary, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any regional support network or service provider refusing to consent to inspection or examination by the authority.

(11) Notwithstanding the existence or pursuit of any other remedy, the secretary may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a regional support network or service provider without certification or a license under this chapter.

(12) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall otherwise assure the effectuation of the purposes of these chapters.

(13) The standards for certification of crisis stabilization units shall include standards that:

(a) Permit location of the units at a jail facility if the unit is physically separate from the general population of the jail;

(b) Require administration of the unit by mental health professionals who direct the stabilization and rehabilitation efforts; and

(c) Provide an environment affording security appropriate with the alleged criminal behavior and necessary to protect the public safety.

(14) The standards for certification of a clubhouse shall at a minimum include:

(a) The facilities may be peer-operated and must be recovery-focused;

(b) Members and employees must work together;

(c) Members must have the opportunity to participate in all the work of the clubhouse, including administration, research, intake and orientation, outreach, hiring, training and evaluation of staff, public relations, advocacy, and evaluation of clubhouse effectiveness;

(d) Members and staff and ultimately the clubhouse director must be responsible for the operation of the clubhouse, central to this responsibility is the engagement of members and staff in all aspects of clubhouse operations;

(e) Clubhouse programs must be comprised of structured activities including but not limited to social skills training, vocational rehabilitation, employment training and job placement, and community resource development;

(f) Clubhouse programs must provide in-house educational programs that significantly utilize the teaching and tutoring skills of members and assist members by helping them to take advantage of adult education opportunities in the community;

(g) Clubhouse programs must focus on strengths, talents, and abilities of its members;

(h) The work-ordered day may not include medication clinics, day treatment, or other therapy programs within the clubhouse.

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

(16) The secretary shall assume all duties assigned to the nonparticipating regional support networks under chapters 71.05, 71.34, and 71.24 RCW. Such responsibilities shall include those which would have been assigned to the nonparticipating counties in regions where there are not participating regional support networks.

The regional support networks, or the secretary's assumption of all responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be included in all state and federal plans affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(17) The secretary shall:

(a) Disburse funds for the regional support networks within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with regional support networks. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking

responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) Notify regional support networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(d) Deny all or part of the funding allocations to regional support networks based solely upon formal findings of noncompliance with the terms of the regional support network's contract with the department. Regional support networks disputing the decision of the secretary to withhold funding allocations are limited to the remedies provided in the department's contracts with the regional support networks.

(18) The department, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by free-standing evaluation and treatment facilities certified under chapter 71.05 RCW. The department shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

Sec. 4. RCW 71.24.300 and 2006 c 333 s 106 are each amended to read as follows:

(1) Upon the request of a tribal authority or authorities within a regional support network the joint operating agreement or the county authority shall allow for the inclusion of the tribal authority to be represented as a party to the regional support network.

(2) The roles and responsibilities of the county and tribal authorities shall be determined by the terms of that agreement including a determination of membership on the governing board and advisory committees, the number of tribal representatives to be party to the agreement, and the provisions of law and shall assure the provision of culturally competent services to the tribes served.

(3) The state mental health authority may not determine the roles and responsibilities of county authorities as to each other under regional support networks by rule, except to assure that all duties required of regional support networks are assigned and that counties and the regional support network do not duplicate functions and that a single authority has final responsibility for all available resources and performance under the regional support network's contract with the secretary.

(4) If a regional support network is a private ((~~nonprofit~~)) entity, the department shall allow for the inclusion of the tribal authority to be represented as a party to the regional support network.

(5) The roles and responsibilities of the private ((~~nonprofit~~)) entity and the tribal authorities shall be determined by the department, through negotiation with the tribal authority.

(6) Regional support networks shall submit an overall six-year operating and capital plan, timeline, and budget and submit progress reports and an updated two-year plan biennially thereafter, to assume within available resources all of the following duties:

(a) Administer and provide for the availability of all resource management services, residential services, and community support services.

(b) Administer and provide for the availability of all investigation, transportation, court-related, and other services provided by the state or counties pursuant to chapter 71.05 RCW.

(c) Provide within the boundaries of each regional support network evaluation and treatment services for at least ninety percent of persons detained or committed for periods up to seventeen days according to chapter 71.05 RCW. Regional support networks may contract to purchase evaluation and treatment services from other networks if they are unable to provide for appropriate resources within their boundaries. Insofar as the original intent of serving persons in the community is maintained, the secretary is authorized to approve exceptions on a case-by-case basis to the requirement to provide evaluation and treatment services within the boundaries of each regional support network. Such exceptions are limited to:

(i) Contracts with neighboring or contiguous regions; or

(ii) Individuals detained or committed for periods up to seventeen days at the state hospitals at the discretion of the secretary.

(d) Administer and provide for the availability of all other mental health services, which shall include patient counseling, day treatment, consultation, education services, employment services as defined in RCW 71.24.035, and mental health services to children.

(e) Establish standards and procedures for reviewing individual service plans and determining when that person may be discharged from resource management services.

(7) A regional support network may request that any state-owned land, building, facility, or other capital asset which was ever purchased, deeded, given, or placed in trust for the care of the ((~~mentally ill~~)) persons with mental illness and which is within the boundaries of a regional support network be made available to support the operations of the regional support network. State agencies managing such capital assets shall give first priority to requests for their use pursuant to this chapter.

(8) Each regional support network shall appoint a mental health advisory board which shall review and provide comments on plans and policies developed under this chapter, provide local oversight regarding the activities of the regional support network, and work with the regional support network to resolve significant concerns regarding service delivery and outcomes. The department shall establish statewide procedures for the operation of regional advisory committees including mechanisms for advisory board feedback to the department regarding regional support network performance. The composition of the board shall be broadly representative of the demographic character of the region and shall include, but not be limited to, representatives of consumers and families, law enforcement, and where the county is not the regional support network, county elected officials. Composition and length of terms of board members may differ between regional support networks but shall be included in each regional support network's contract and approved by the secretary.

(9) Regional support networks shall assume all duties specified in their plans and joint operating agreements through biennial contractual agreements with the secretary.

(10) Regional support networks may receive technical assistance from the housing trust fund and may identify and submit projects for housing and housing support services to the housing trust fund established under chapter 43.185 RCW. Projects identified or submitted under this subsection must be fully integrated with the regional support network six-year operating and capital plan, timeline, and budget required by subsection (6) of this section.

Sec. 5. RCW 71.24.320 and 2006 c 333 s 202 are each amended to read as follows:

(1) ((~~The secretary shall initiate a procurement process for regional support networks in 2005. In the first step of the procurement process, existing regional support networks may respond to a request for qualifications developed by the department. The secretary shall issue the request for qualifications not later than October 1, 2005. The request for qualifications shall be based on cost-effectiveness, adequate residential and service capabilities, effective collaboration with criminal justice agencies and the chemical dependency treatment system, and the ability to provide the full array of services as stated in the mental health state plan, and shall meet all applicable federal and state regulations and standards. An existing regional support network shall be awarded the contract with the department if it substantially meets the requirements of the request for qualifications developed by the department.~~

~~(2)(a)~~)) If an existing regional support network chooses not to respond to ((~~the~~)) a request for qualifications, or is unable to substantially meet the requirements of ((~~the~~)) a request for

qualifications, or notifies the department of social and health services it will no longer serve as a regional support network, the department shall utilize a procurement process in which other entities recognized by the secretary may bid to serve as the regional support network ((~~in that region. The procurement process shall begin with a request for proposals issued March 1, 2006~~)).

(((~~(i)~~))) (a) The request for proposal shall include a scoring factor for proposals that include additional financial resources beyond that provided by state appropriation or allocation.

((~~(ii) Regional support networks that substantially met the requirements of the request for qualifications may bid to serve as the regional support network for other regions of the state that are subject to the request for proposal process. The proposal shall be evaluated on whether the bid meets the threshold requirement for the new region and shall not subject the regional support networks' original region to the request for proposal.~~

~~(b) Prior to final evaluation and scoring of the proposals all respondents will be provided with an opportunity for a detailed briefing by the department regarding the deficiencies in the proposal and shall be provided an opportunity to clarify information previously submitted.~~))

(b) The department shall provide detailed briefings to all bidders in accordance with department and state procurement policies.

(c) The request for proposal shall also include a scoring factor for proposals submitted by nonprofit entities that include a component to maximize the utilization of state provided resources and the leverage of other funds for the support of mental health services to persons with mental illness.

(2) A regional support network that voluntarily terminates, refuses to renew, or refuses to sign a mandatory amendment to its contract to act as a regional support network is prohibited from responding to a procurement under this section or serving as a regional support network for five years from the date that the department signs a contract with the entity that will serve as the regional support network.

Sec. 6. RCW 71.24.330 and 2006 c 333 s 203 are each amended to read as follows:

(1) Contracts between a regional support network and the department shall include mechanisms for monitoring performance under the contract and remedies for failure to substantially comply with the requirements of the contract including, but not limited to, financial penalties, termination of the contract, and reprocurement of the contract.

(2) The regional support network procurement processes shall encourage the preservation of infrastructure previously purchased by the community mental health service delivery system, the maintenance of linkages between other services and delivery systems, and maximization of the use of available funds for services versus profits. However, a regional support network selected through the procurement process is not required to contract for services with any county-owned or operated facility. The regional support network procurement process shall provide that public funds appropriated by the legislature shall not be used to promote or deter, encourage, or discourage employees from exercising their rights under Title 29, chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

(3) In addition to the requirements of RCW 71.24.035, contracts shall:

(a) Define administrative costs and ensure that the regional support network does not exceed an administrative cost of ten percent of available funds;

(b) Require effective collaboration with law enforcement, criminal justice agencies, and the chemical dependency treatment system;

(c) Require substantial implementation of department adopted integrated screening and assessment process and matrix of best practices;

(d) Maintain the decision-making independence of designated mental health professionals;

(e) Except at the discretion of the secretary or as specified in the biennial budget, require regional support networks to pay the state for the costs associated with individuals who are being served on the grounds of the state hospitals and who are not receiving long-term inpatient care as defined in RCW 71.24.025; ((~~and~~))

(f) Include a negotiated alternative dispute resolution clause; and

(g) Include a provision requiring either party to provide the one hundred eighty days' advance notice of its intent to voluntarily terminate, refuse to renew, or refuse to sign a mandatory amendment to the contract to act as a regional support network.

NEW SECTION. **Sec. 7.** Section 5 of this act applies retroactively to July 1, 2007."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6404 and ask the House to recede therefrom.

Senators Regala spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Regala that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6404 and ask the House to recede therefrom.

The motion by Senator Regala carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6404 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6665, with the following amendment: 6665-S.E AMH APP H5902.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.96A.800 and 2005 c 504 s 220 are each amended to read as follows:

(1) The secretary shall select and contract with counties to provide intensive case management for chemically dependent persons with histories of high utilization of crisis services at two sites. In selecting the two sites, the secretary shall endeavor to site one in an urban county, and one in a rural county; and to site them in counties other than those selected pursuant to RCW 70.96B.020, to the extent necessary to facilitate evaluation of pilot project results. Within funds provided for this specific purpose, the secretary may contract with additional counties to provide intensive case management.

(2) The contracted sites shall implement the pilot programs by providing intensive case management to persons with a primary chemical dependency diagnosis or dual primary chemical dependency and mental health diagnoses, through the employment of chemical dependency case managers. The chemical dependency case managers shall:

(a) Be trained in and use the integrated, comprehensive screening and assessment process adopted under RCW 70.96C.010;

(b) Reduce the use of crisis medical, chemical dependency and mental health services, including but not limited to, emergency room admissions, hospitalizations, detoxification programs, inpatient psychiatric admissions, involuntary

treatment petitions, emergency medical services, and ambulance services;

(c) Reduce the use of emergency first responder services including police, fire, emergency medical, and ambulance services;

(d) Reduce the number of criminal justice interventions including arrests, violations of conditions of supervision, bookings, jail days, prison sanction day for violations, court appearances, and prosecutor and defense costs;

(e) Where appropriate and available, work with therapeutic courts including drug courts and mental health courts to maximize the outcomes for the individual and reduce the likelihood of reoffense;

(f) Coordinate with local offices of the economic services administration to assist the person in accessing and remaining enrolled in those programs to which the person may be entitled;

(g) Where appropriate and available, coordinate with primary care and other programs operated through the federal government including federally qualified health centers, Indian health programs, and veterans' health programs for which the person is eligible to reduce duplication of services and conflicts in case approach;

(h) Where appropriate, advocate for the client's needs to assist the person in achieving and maintaining stability and progress toward recovery;

(i) Document the numbers of persons with co-occurring mental and substance abuse disorders and the point of determination of the co-occurring disorder by quadrant of intensity of need; and

(j) Where a program participant is under supervision by the department of corrections, collaborate with the department of corrections to maximize treatment outcomes and reduce the likelihood of reoffense.

(3) The pilot programs established by this section shall begin providing services by March 1, 2006.

(4) This section expires ((~~June 30~~)) December 31, 2008.

Sec. 2. RCW 70.96B.800 and 2005 c 504 s 217 are each amended to read as follows:

(1) The Washington state institute for public policy shall evaluate the pilot programs and make ((~~a~~)) preliminary reports to appropriate committees of the legislature by December 1, 2007, and June 30, 2008, and a final report by ((~~September 30, 2008~~)) June 30, 2010.

(2) The evaluation of the pilot programs shall include:

(a) Whether the designated crisis responder pilot program:

(i) Has increased efficiency of evaluation and treatment of persons involuntarily detained for seventy-two hours;

(ii) Is cost-effective;

(iii) Results in better outcomes for persons involuntarily detained;

(iv) Increased the effectiveness of the crisis response system in the pilot catchment areas;

(b) The effectiveness of providing a single chapter in the Revised Code of Washington to address initial detention of persons with mental disorders or chemical dependency, in crisis response situations and the likelihood of effectiveness of providing a single, comprehensive involuntary treatment act.

(3) The reports shall consider the impact of the pilot programs on the existing mental health system and on the persons served by the system.

Sec. 3. RCW 70.96B.010 and 2005 c 504 s 202 are each amended to read as follows:

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

(1) "Admission" or "admit" means a decision by a physician that a person should be examined or treated as a patient in a hospital, an evaluation and treatment facility, or other inpatient facility, or a decision by a professional person in charge or his or her designee that a person should be detained as a patient for evaluation and treatment in a secure detoxification facility or other certified chemical dependency provider.

(2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes but is not limited to atypical antipsychotic medications.

(3) "Approved treatment program" means a discrete program of chemical dependency treatment provided by a treatment program certified by the department as meeting standards adopted under chapter 70.96A RCW.

(4) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient.

(5) "Chemical dependency" means:

(a) Alcoholism;

(b) Drug addiction; or

(c) Dependence on alcohol and one or more other psychoactive chemicals, as the context requires.

(6) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

(7) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting.

(8) "Conditional release" means a revocable modification of a commitment that may be revoked upon violation of any of its terms.

(9) "Custody" means involuntary detention under either chapter 71.05 or 70.96A RCW or this chapter, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

(10) "Department" means the department of social and health services.

(11) "Designated chemical dependency specialist" or "specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in RCW 70.96A.140 and this chapter, and qualified to do so by meeting standards adopted by the department.

(12) "Designated crisis responder" means a person designated by the county or regional support network to perform the duties specified in this chapter.

(13) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter.

(14) "Detention" or "detain" means the lawful confinement of a person under this chapter, or chapter 70.96A or 71.05 RCW.

(15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with individuals with developmental disabilities and is a psychiatrist, psychologist, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(16) "Developmental disability" means that condition defined in RCW 71A.10.020.

(17) "Discharge" means the termination of facility authority. The commitment may remain in place, be terminated, or be amended by court order.

(18) "Evaluation and treatment facility" means any facility that can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and that is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility that is part of, or operated by, the department or any federal agency does not require certification. No correctional institution or facility, or jail, may be an evaluation and treatment facility within the meaning of this chapter.

(19) "Facility" means either an evaluation and treatment facility or a secure detoxification facility.

(20) "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals:

(a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or

(b) Manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(21) "History of one or more violent acts" refers to the period of time ten years before the filing of a petition under this chapter, or chapter 70.96A or 71.05 RCW, excluding any time spent, but not any violent acts committed, in a mental health facility or a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction.

(22) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.

(23) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(((~~(23)~~))) (24) "Judicial commitment" means a commitment by a court under this chapter.

(((~~(24)~~))) (25) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(((~~(25)~~))) (26) "Likelihood of serious harm" means:

(a) A substantial risk that:

(i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;

(ii) Physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or

(iii) Physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts.

(((~~(26)~~))) (27) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on a person's cognitive or volitional functions.

(((~~(27)~~))) (28) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary under the authority of chapter 71.05 RCW.

(((~~(28)~~))) (29) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.

(((~~(29)~~))) (30) "Person in charge" means a physician or chemical dependency counselor as defined in rule by the department, who is empowered by a certified treatment program with authority to make assessment, admission, continuing care, and discharge decisions on behalf of the certified program.

(((~~(30)~~))) (31) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved treatment program, that is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill and/or chemically dependent.

(((~~(31)~~))) (32) "Professional person" means a mental health professional or chemical dependency professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter.

(((~~(32)~~))) (33) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology.

(((~~(33)~~))) (34) "Psychologist" means a person who has been licensed as a psychologist under chapter 18.83 RCW.

(((~~(34)~~))) (35) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved treatment program that is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill and/or chemically dependent, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(((~~(35)~~))) (36) "Registration records" means all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness.

(((~~(36)~~))) (37) "Release" means legal termination of the commitment under chapter 70.96A or 71.05 RCW or this chapter.

(((~~(37)~~))) (38) "Secretary" means the secretary of the department or the secretary's designee.

(((~~(38)~~))) (39) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that serves the purpose of providing evaluation and assessment, and acute and/or subacute detoxification services for intoxicated persons and includes security measures sufficient to protect the patients, staff, and community.

(((~~(39)~~))) (40) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary.

(((~~(40)~~))) (41) "Treatment records" means registration records and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

(((~~(41)~~))) (42) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

Sec. 4. RCW 70.96B.020 and 2005 c 504 s 203 are each amended to read as follows:

(1) The secretary, after consulting with the Washington state association of counties, shall select and contract with regional support networks or counties to provide two integrated crisis response and involuntary treatment pilot programs for adults and shall allocate resources for both integrated services and secure detoxification services in the pilot areas. In selecting the two regional support networks or counties, the secretary shall endeavor to site one in an urban and one in a rural regional support network or county; and to site them in counties other than those selected pursuant to RCW 70.96A.800, to the extent necessary to facilitate evaluation of pilot project results. Within funds provided for this specific purpose, the secretary may contract with additional regional support networks or counties to provide integrated crisis response and involuntary treatment pilot programs to adults.

(2) The regional support networks or counties shall implement the pilot programs by providing integrated crisis response and involuntary treatment to persons with a chemical

dependency, a mental disorder, or both, consistent with this chapter. The pilot programs shall:

(a) Combine the crisis responder functions of a designated mental health professional under chapter 71.05 RCW and a designated chemical dependency specialist under chapter 70.96A RCW by establishing a new designated crisis responder who is authorized to conduct investigations and detain persons up to seventy-two hours to the proper facility;

(b) Provide training to the crisis responders as required by the department;

(c) Provide sufficient staff and resources to ensure availability of an adequate number of crisis responders twenty-four hours a day, seven days a week;

(d) Provide the administrative and court-related staff, resources, and processes necessary to facilitate the legal requirements of the initial detention and the commitment hearings for persons with a chemical dependency;

(e) Participate in the evaluation and report to assess the outcomes of the pilot programs including providing data and information as requested;

(f) Provide the other services necessary to the implementation of the pilot programs, consistent with this chapter as determined by the secretary in contract; and

(g) Collaborate with the department of corrections where persons detained or committed are also subject to supervision by the department of corrections.

(3) The pilot programs established by this section shall begin providing services by March 1, 2006.

Sec. 5. RCW 70.96B.050 and 2007 c 120 s 1 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, chemical dependency disorder, or both, presents a likelihood of serious harm or is gravely disabled, the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at either an evaluation and treatment facility, a detoxification facility, or other certified chemical dependency provider.

(2)(a) An order to detain to an evaluation and treatment facility, a detoxification facility, or other certified chemical dependency provider for not more than a seventy-two hour evaluation and treatment period may be issued by a judge upon request of a designated crisis responder: (i) Whenever it appears to the satisfaction of a judge of the superior court, district court, or other court permitted by court rule, that there is probable cause to support the petition, and (ii) that the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury or sworn telephonic testimony, may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order to appear, together with a notice of rights and a petition for initial detention. After service on the person, the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility or secure detoxification facility and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider. If requested by the detained person or his or her attorney, the hearing may be postponed for a period not to exceed forty-eight hours. The hearing may be continued subject to the petitioner's showing of good cause for a period not to exceed twenty-four hours. The person may be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other person accompanying the person may be present during the admission evaluation. The facility may exclude the person if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take the person or cause the person to be taken into custody and placed in an evaluation and treatment facility, a secure detoxification facility, or other certified chemical dependency provider. At the time the person is taken into custody there shall commence to be served on the person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of detention, a notice of rights, and a petition for initial detention.

Sec. 6. RCW 70.96B.100 and 2005 c 504 s 211 are each amended to read as follows:

((~~If a person is detained for additional treatment beyond fourteen days under RCW 70.96B.090, the professional staff of the agency or facility may petition for additional treatment under RCW 70.96A.140.~~)) (1) A person detained for fourteen days of involuntary chemical dependency treatment under RCW 70.96B.090 or subsection (6) of this section shall be released from involuntary treatment at the expiration of the period of commitment unless the professional staff of the agency or facility files a petition for an additional period of involuntary treatment under RCW 70.96A.140, or files a petition for sixty days less restrictive treatment under this section naming the detained person as a respondent. Costs associated with the obtainment or revocation of an order for less restrictive treatment and subsequent involuntary commitment shall be provided for within current funding.

(2) A petition for less restrictive treatment must be filed at least three days before expiration of the fourteen-day period of intensive treatment, and comport with the rules contained in RCW 70.96B.090(2). The petition shall state facts that support the finding that the respondent, as a result of a chemical dependency, presents a likelihood of serious harm or is gravely disabled, and that continued treatment pursuant to a less restrictive order is in the best interest of the respondent or others. At the time of filing such a petition, the clerk shall set a time for the respondent to come before the court on the next judicial day after the day of filing unless such appearance is waived by the respondent's attorney.

(3) At the time set for appearance the respondent must be brought before the court, unless such appearance has been waived and the court shall advise the respondent of his or her right to be represented by an attorney. If the respondent is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent the respondent. The court shall, if requested, appoint a reasonably available licensed physician, psychologist, or psychiatrist, designated by the respondent to examine and testify on behalf of the respondent.

(4) The court shall conduct a hearing on the petition for sixty days less restrictive treatment on or before the last day of the confinement period. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the

petitioner. The respondent shall be present at such proceeding. The rules of evidence shall apply, and the respondent shall have the right to present evidence on his or her behalf, to cross-examine witnesses who testify against him or her, to remain silent, and to view and copy all petitions and reports in the court file. The physician-patient privilege or the psychologist-client privilege shall be deemed waived in accordance with the provisions under RCW 71.05.360(9). Involuntary treatment shall continue while a petition for less restrictive treatment is pending under this section.

(5) The court may impose a sixty-day less restrictive order if the evidence shows that the respondent, as a result of a chemical dependency, presents a likelihood of serious harm or is gravely disabled, and that continued treatment pursuant to a less restrictive order is in the best interest of the respondent or others. The less restrictive order may impose treatment conditions and other conditions which are in the best interest of the respondent and others. A copy of the less restrictive order shall be given to the respondent, the designated crisis responder, and any program designated to provide less restrictive treatment. A program designated to provide less restrictive treatment and willing to supervise the conditions of the less restrictive order may modify the conditions for continued release when the modification is in the best interests of the respondent, but must notify the designated crisis responder and the court of such modification.

(6) If a program approved by the court and willing to supervise the conditions of the less restrictive order or the designated crisis responder determines that the respondent is failing to adhere to the terms of the less restrictive order or that substantial deterioration in the respondent's functioning has occurred, then the designated crisis responder shall notify the court of original commitment and request a hearing to be held no less than two and no more than seven days after the date of the request to determine whether or not the respondent should be returned to more restrictive care. The designated crisis responder may cause the respondent to be immediately taken into custody of the secure detoxification facility pending the hearing if the alleged noncompliance causes an imminent risk to the safety of the respondent. The designated crisis responder shall file a petition with the court stating the facts substantiating the need for the hearing along with the treatment recommendations. The respondent shall have the same rights with respect to notice, hearing, and counsel as for the original involuntary treatment proceedings. The issues to be determined at the hearing are whether the conditionally released respondent did or did not adhere to the terms and conditions of his or her release to less restrictive care or that substantial deterioration of the respondent's functioning has occurred and whether the condition of release should be modified or the respondent should be returned to a more restrictive setting. The hearing may be waived by the respondent and his or her counsel and his or her guardian or conservator, if any, but may not be waived unless all such persons agree to the waiver. If court finds in favor of the petitioner, or the respondent waives a hearing, the court may order the respondent to be committed to a secure detoxification facility for fourteen days of involuntary chemical dependency treatment, or may order the respondent to be returned to less restrictive treatment on the same or modified conditions.

Sec. 7. RCW 70.96B.900 and 2005 c 504 s 219 are each amended to read as follows:

Sections 202 through 216 ((~~of this act~~)), chapter 504, Laws of 2005 expire ((~~July 1~~)) December 31, 2008.

NEW SECTION. **Sec. 8.** Sections 3 through 6 of this act expire December 31, 2008.

Sec. 9. 2007 c 120 s 4 (uncodified) is amended to read as follows:

Sections 1 and 2 ((~~of this act~~)), chapter 120, Laws of 2007 expire ((~~July 1~~)) December 31, 2008.

NEW SECTION. **Sec. 10.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6665 and ask the House to recede therefrom.

Senators Regala spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Regala that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6665 and ask the House to recede therefrom.

The motion by Senator Regala carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6665 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

March 7, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6760, with the following amendment: 6760-S.E AMH ENGR H5880.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 71A.20.170 and 2005 c 353 s 1 are each amended to read as follows:

(1) The developmental disabilities community trust account is created in the state treasury. All net proceeds from the use of excess property identified in the 2002 joint legislative audit and review committee capital study or other studies of the division of developmental disabilities residential habilitation centers at Lakeland Village, Yakima Valley school, Francis Haddon Morgan Center, and Rainier school that would not impact current residential habilitation center operations must be deposited into the account. ((~~Income~~))

(2) Proceeds may come from the lease of the land, conservation easements, sale of timber, or other activities short of sale of the property.

(3) "Excess property" includes that portion of the property at Rainier school previously under the cognizance and control of Washington State University for use as a dairy/forage research facility. ((~~"Proceeds" include the net receipts from the use of all or a portion of the properties.~~))

(4) Only investment income from the principal of the proceeds deposited into the trust account may be spent from the account. For purposes of this section, "investment income" includes lease payments, rent payments, or other periodic payments deposited into the trust account. For purposes of this section, "principal" is the actual excess land from which proceeds are assigned to the trust account.

(5) Moneys in the account may be spent only after appropriation. Expenditures from the account shall be used exclusively to provide family support and/or employment/day services to eligible persons with developmental disabilities who can be served by community-based developmental disability services. It is the intent of the legislature that the account should not be used to replace, supplant, or reduce existing appropriations.

((~~(2) The department shall report on its efforts and strategies to provide income to the developmental disabilities community~~

~~trust account from the excess property identified in subsection (1) of this section from the lease of the property, sale of timber, or other activity short of sale of the property. The department shall report by June 30, 2006.~~

~~(3)~~)) (6) The account shall be known as the Dan Thompson memorial developmental disabilities community trust account."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6760 and ask the House to recede therefrom.

Senators Regala spoke in favor of the motion.

MOTION

On motion of Senator Rockefeller, Senator Kline was excused.

The President declared the question before the Senate to be motion by Senator Regala that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6760 and ask the House to recede therefrom.

The motion by Senator Regala carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6760 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6776, with the following amendment: 6776-S.E AMH APP H5898.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds and declares that government exists to conduct the people's business, and the people remaining informed about the actions of government contributes to the oversight of how the people's business is conducted. The legislature further finds that many public servants who expose actions of their government that are contrary to the law or public interest face the potential loss of their careers and livelihoods.

It is the policy of the legislature that employees should be encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions, and it is the intent of the legislature to protect the rights of state employees making these disclosures. It is also the policy of the legislature that employees should be encouraged to identify rules warranting review or provide information to the rules review committee, and it is the intent of the legislature to protect the rights of these employees.

This act shall be broadly construed in order to effectuate the purpose of this act.

Sec. 2. RCW 42.40.020 and 1999 c 361 s 1 are each amended to read as follows:

As used in this chapter, the terms defined in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Auditor" means the office of the state auditor.

(2) "Employee" means any individual employed or holding office in any department or agency of state government.

(3) "Good faith" means the individual providing the information or report of improper governmental activity has a reasonable basis in fact for reporting or providing the ((~~communication~~)) information. ((~~"Good faith" is lacking when the employee knows or reasonably ought to know that the report is malicious, false, or frivolous.~~)) An individual who knowingly, or reasonably ought to know, provides or reports malicious, false, or frivolous information, or information that is provided with reckless disregard for the truth, or who knowingly omits relevant information is not acting in good faith.

(4) "Gross mismanagement" means the exercise of management responsibilities in a manner grossly deviating from the standard of care or competence that a reasonable person would observe in the same situation.

(5) "Gross waste of funds" means to spend or use funds or to allow funds to be used without valuable result in a manner grossly deviating from the standard of care or competence that a reasonable person would observe in the same situation.

(((~~5~~))) (6)(a) "Improper governmental action" means any action by an employee undertaken in the performance of the employee's official duties:

(i) Which is ((~~[a]~~)) a gross waste of public funds or resources as defined in this section;

(ii) Which is in violation of federal or state law or rule, if the violation is not merely technical or of a minimum nature; ((~~or~~))

(iii) Which is of substantial and specific danger to the public health or safety;

(iv) Which is gross mismanagement; or

(v) Which prevents the dissemination of scientific opinion or alters technical findings without scientifically valid justification, unless state law or a common law privilege prohibits disclosure. This provision is not meant to preclude the discretion of agency management to adopt a particular scientific opinion or technical finding from among differing opinions or technical findings to the exclusion of other scientific opinions or technical findings. Nothing in this subsection prevents or impairs a state agency's or public official's ability to manage its public resources or its employees in the performance of their official job duties. This subsection does not apply to de minimis, technical disagreements that are not relevant for otherwise improper governmental activity. Nothing in this provision requires the auditor to contract or consult with external experts regarding the scientific validity, invalidity, or justification of a finding or opinion.

(b) "Improper governmental action" does not include personnel actions, for which other remedies exist, including but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of the state civil service law, alleged labor agreement violations, reprimands, claims of discriminatory treatment, or any action which may be taken under chapter 41.06 RCW, or other disciplinary action except as provided in RCW 42.40.030.

(((~~6~~))) (7) "Public official" means the attorney general's designee or designees; an appropriate number of individuals designated to receive whistleblower reports by the head of each agency; or the executive ethics board.

(8) "Substantial and specific danger" means a risk of serious injury, illness, peril, or loss, to which the exposure of the public is a gross deviation from the standard of care or competence which a reasonable person would observe in the same situation.

(((~~7~~))) (9) "Use of official authority or influence" includes threatening, taking, directing others to take, recommending, processing, or approving any personnel action such as an appointment, promotion, transfer, assignment including but not limited to duties and office location, reassignment, reinstatement, restoration, reemployment, performance evaluation, determining any material changes in pay, provision of training or benefits, tolerance of a hostile work environment,

or any adverse action under chapter 41.06 RCW, or other disciplinary action.

(((~~(8)~~))) (10)(a) "Whistleblower" means:

(i) An employee who in good faith reports alleged improper governmental action to the auditor or other public official, as defined in subsection (7) of this section, initiating an investigation by the auditor under RCW 42.40.040; or

(ii) An employee who is perceived by the employer as reporting, whether they did or not, alleged improper governmental action to the auditor or other public official, as defined in subsection (7) of this section, initiating an investigation by the auditor under RCW 42.40.040.

(b) For purposes of the provisions of this chapter and chapter 49.60 RCW relating to reprisals and retaliatory action, the term "whistleblower" also means:

(((~~(a)~~))) (i) An employee who in good faith provides information to the auditor or other public official, as defined in subsection (7) of this section, in connection with an investigation under RCW 42.40.040 and an employee who is believed to have reported asserted improper governmental action to the auditor or other public official, as defined in subsection (7) of this section, or to have provided information to the auditor or other public official, as defined in subsection (7) of this section, in connection with an investigation under RCW 42.40.040 but who, in fact, has not reported such action or provided such information; or

(((~~(b)~~))) (ii) An employee who in good faith identifies rules warranting review or provides information to the rules review committee, and an employee who is believed to have identified rules warranting review or provided information to the rules review committee but who, in fact, has not done so.

Sec. 3. RCW 42.40.030 and 1995 c 403 s 510 are each amended to read as follows:

(1) An employee shall not directly or indirectly use or attempt to use the employee's official authority or influence for the purpose of intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command, or influence any individual for the purpose of interfering with the right of the individual to: (a) Disclose to the auditor (or representative thereof) or other public official, as defined in RCW 42.40.020, information concerning improper governmental action; or (b) identify rules warranting review or provide information to the rules review committee.

(2) Nothing in this section authorizes an individual to disclose information otherwise prohibited by law, except to the extent that information is necessary to substantiate the whistleblower complaint, in which case information may be disclosed to the auditor or public official, as defined in RCW 42.40.020, by the whistleblower for the limited purpose of providing information related to the complaint. Any information provided to the auditor or public official under the authority of this subsection may not be further disclosed.

Sec. 4. RCW 42.40.040 and 1999 c 361 s 3 are each amended to read as follows:

(1)(a) In order to be investigated, an assertion of improper governmental action must be provided to the auditor or other public official within one year after the occurrence of the asserted improper governmental action. The public official, as defined in RCW 42.40.020, receiving an assertion of improper governmental action must report the assertion to the auditor within fifteen calendar days of receipt of the assertion. The auditor retains sole authority to investigate an assertion of improper governmental action including those made to a public official. A failure of the public official to report the assertion to the auditor within fifteen days does not impair the rights of the whistleblower.

(b) Except as provided under RCW 42.40.910 for legislative and judicial branches of government, the auditor has the authority to determine whether to investigate any assertions received. In determining whether to conduct either a preliminary or further investigation, the auditor shall consider factors including, but not limited to: The nature and quality of evidence and the existence of relevant laws and rules; whether the action was isolated or systematic; the history of previous assertions regarding the same subject or subjects or subject matter; whether other avenues are available for addressing the matter; whether the matter has already been investigated or is in litigation; the seriousness or significance of the asserted improper governmental action; and the cost and benefit of the investigation. The auditor has the sole discretion to determine the priority and weight given to these and other relevant factors and to decide whether a matter is to be investigated. The auditor shall document the factors considered and the analysis applied.

(c) The auditor also has the authority to investigate assertions of improper governmental actions as part of an audit conducted under chapter 43.09 RCW. The auditor shall document the reasons for handling the matter as part of such an audit.

(2) Subject to subsection (5)(c) of this section, the identity or identifying characteristics of a whistleblower is confidential at all times unless the whistleblower consents to disclosure by written waiver or by acknowledging his or her identity in a claim against the state for retaliation. In addition, the identity or identifying characteristics of any person who in good faith provides information in an investigation under this section is confidential at all times, unless the person consents to disclosure by written waiver or by acknowledging his or her identity as a witness who provides information in an investigation.

(3) Upon receiving specific information that an employee has engaged in improper governmental action, the auditor shall, within ((~~five~~)) fifteen working days of receipt of the information, mail written acknowledgement to the whistleblower at the address provided stating whether a preliminary investigation will be conducted. For a period not to exceed ((~~thirty~~)) sixty working days from receipt of the assertion, the auditor shall conduct such preliminary investigation of the matter as the auditor deems appropriate.

(4) In addition to the authority under subsection (3) of this section, the auditor may, on its own initiative, investigate incidents of improper state governmental action.

(5)(a) If it appears to the auditor, upon completion of the preliminary investigation, that the matter is so unsubstantiated that no further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the whistleblower summarizing where the allegations are deficient, and provide a reasonable opportunity to reply. Such notification may be by electronic means.

(b) The written notification shall contain a summary of the information received and of the results of the preliminary investigation with regard to each assertion of improper governmental action.

(c) In any case to which this section applies, the identity or identifying characteristics of the whistleblower shall be kept confidential unless the auditor determines that the information has been provided other than in good faith. If the auditor makes such a determination, the auditor shall provide reasonable advance notice to the employee.

(d) With the agency's consent, the auditor may forward the assertions to an appropriate agency to investigate and report back to the auditor no later than sixty working days after the assertions are received from the auditor. The auditor is entitled to all investigative records resulting from such a referral. All procedural and confidentiality provisions of this chapter apply to investigations conducted under this subsection. The auditor shall document the reasons the assertions were referred.

(6) During the preliminary investigation, the auditor shall provide written notification of the nature of the assertions to the subject or subjects of the investigation and the agency head. The notification shall include the relevant facts and laws known at the time and the procedure for the subject or subjects of the investigation and the agency head to respond to the assertions and information obtained during the investigation. This

notification does not limit the auditor from considering additional facts or laws which become known during further investigation.

((~~(7)~~))(a) If it appears to the auditor after completion of the preliminary investigation that further investigation, prosecution, or administrative action is warranted, the auditor shall so notify the whistleblower, the subject or subjects of the investigation, and the agency head and either conduct a further investigation or issue a report under subsection ((~~(10)~~)) (9) of this section.

(b) If the preliminary investigation resulted from an anonymous assertion, a decision to conduct further investigation shall be subject to review by a three-person panel convened as necessary by the auditor prior to the commencement of any additional investigation. The panel shall include a state auditor representative knowledgeable of the subject agency operations, a citizen volunteer, and a representative of the attorney general's office. This group shall be briefed on the preliminary investigation and shall recommend whether the auditor should proceed with further investigation.

(c) If further investigation is to occur, the auditor shall provide written notification of the nature of the assertions to the subject or subjects of the investigation and the agency head. The notification shall include the relevant facts known at the time and the procedure to be used by the subject or subjects of the investigation and the agency head to respond to the assertions and information obtained during the investigation.

((~~(8)~~)) (7) Within sixty working days after the preliminary investigation period in subsection (3) of this section, the auditor shall complete the investigation and report its findings to the whistleblower unless written justification for the delay is furnished to the whistleblower, agency head, and subject or subjects of the investigation. In all such cases, the report of the auditor's investigation and findings shall be sent to the whistleblower within one year after the information was filed under subsection (3) of this section.

((~~(9)~~)) (8)(a) At any stage of an investigation under this section the auditor may require by subpoena the attendance and testimony of witnesses and the production of documentary or other evidence relating to the investigation at any designated place in the state. The auditor may issue subpoenas, administer oaths, examine witnesses, and receive evidence. In the case of contumacy or failure to obey a subpoena, the superior court for the county in which the person to whom the subpoena is addressed resides or is served may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) The auditor may order the taking of depositions at any stage of a proceeding or investigation under this chapter. Depositions shall be taken before an individual designated by the auditor and having the power to administer oaths. Testimony shall be reduced to writing by or under the direction of the individual taking the deposition and shall be subscribed by the deponent.

(c) Agencies shall cooperate fully in the investigation and shall take appropriate action to preclude the destruction of any evidence during the course of the investigation.

(d) During the investigation the auditor shall interview each subject of the investigation. If it is determined there is reasonable cause to believe improper governmental action has occurred, the subject or subjects and the agency head shall be given fifteen working days to respond to the assertions prior to the issuance of the final report.

((~~(10)~~)) (9)(a) If the auditor determines there is reasonable cause to believe an employee has engaged in improper governmental action, the auditor shall report, to the extent allowable under existing public disclosure laws, the nature and details of the activity to:

(i) The subject or subjects of the investigation and the head of the employing agency; ((~~and~~))

(ii) If appropriate, the attorney general or such other authority as the auditor determines appropriate;

(iii) Electronically to the governor, secretary of the senate, and chief clerk of the house of representatives; and

(iv) Except for information whose release is specifically prohibited by statute or executive order, the public through the public file of whistleblower reports maintained by the auditor.

(b) The auditor has no enforcement power except that in any case in which the auditor submits an investigative report containing reasonable cause determinations to the agency, the agency shall send its plan for resolution to the auditor within fifteen working days of having received the report. The agency is encouraged to consult with the subject or subjects of the investigation in establishing the resolution plan. The auditor may require periodic reports of agency action until all resolution has occurred. If the auditor determines that appropriate action has not been taken, the auditor shall report the determination to the governor and to the legislature and may include this determination in the agency audit under chapter 43.09 RCW.

((~~(11)~~)) (10) Once the auditor concludes that appropriate action has been taken to resolve the matter, the auditor shall so notify the whistleblower, the agency head, and the subject or subjects of the investigation. If the resolution takes more than one year, the auditor shall provide annual notification of its status to the whistleblower, agency head, and subject or subjects of the investigation.

((~~(12)~~)) (11) Failure to cooperate with such audit or investigation, or retaliation against anyone who assists the auditor by engaging in activity protected by this chapter shall be reported as a separate finding with recommendations for corrective action in the associated report whenever it occurs.

(12) This section does not limit any authority conferred upon the attorney general or any other agency of government to investigate any matter.

Sec. 5. RCW 42.40.070 and 1989 c 284 s 5 are each amended to read as follows:

A written summary of this chapter and procedures for reporting improper governmental actions established by the auditor's office shall be made available by each department or agency of state government to each employee upon entering public employment. Such notices may be in agency internal newsletters, included with paychecks or stubs, sent via electronic mail to all employees, or sent by other means that are cost-effective and reach all employees of the government level, division, or subdivision. Employees shall be notified by each department or agency of state government each year of the procedures and protections under this chapter. The annual notices shall include a list of public officials, as defined in RCW 42.40.020, authorized to receive whistleblower reports. The list of public officials authorized to receive whistleblower reports shall also be prominently displayed in all agency offices.

Sec. 6. RCW 42.40.050 and 1999 c 283 s 1 are each amended to read as follows:

(1)(a) Any person who is a whistleblower, as defined in RCW 42.40.020, and who has been subjected to workplace reprisal or retaliatory action is presumed to have established a cause of action for the remedies provided under chapter 49.60 RCW.

(b) For the purpose of this section, "reprisal or retaliatory action" means, but is not limited to, any of the following:

((~~(a)~~)) (i) Denial of adequate staff to perform duties;

((~~(b)~~)) (ii) Frequent staff changes;

((~~(c)~~)) (iii) Frequent and undesirable office changes;

((~~(d)~~)) (iv) Refusal to assign meaningful work;

((~~(e)~~)) (v) Unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations;

((~~(f)~~)) (vi) Demotion;

((~~(g)~~)) (vii) Reduction in pay;

((~~(h)~~)) (viii) Denial of promotion;

((~~(i)~~)) (ix) Suspension;

((~~(j)~~)) (x) Dismissal;

((~~(k)~~)) (xi) Denial of employment;

((~~(l)~~)) (xii) A supervisor or superior behaving in or encouraging coworkers to behave in a hostile manner toward the whistleblower; ((~~and~~

~~(m)~~)) (xiii) A change in the physical location of the employee's workplace or a change in the basic nature of the employee's job, if either are in opposition to the employee's expressed wish;

(xiv) Issuance of or attempt to enforce any nondisclosure policy or agreement in a manner inconsistent with prior practice; or

(xv) Any other action that is inconsistent compared to actions taken before the employee engaged in conduct protected by this chapter, or compared to other employees who have not engaged in conduct protected by this chapter.

(2) The agency presumed to have taken retaliatory action under subsection (1) of this section may rebut that presumption by proving by a preponderance of the evidence that there have been a series of documented personnel problems or a single, egregious event, or that the agency action or actions were justified by reasons unrelated to the employee's status as a whistleblower and that improper motive was not a substantial factor.

(3) Nothing in this section prohibits an agency from making any decision exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower. However, the agency also shall implement any order under chapter 49.60 RCW (other than an order of suspension if the agency has terminated the retaliator).

Sec. 7. RCW 49.60.230 and 1993 c 510 s 21 and 1993 c 69 s 11 are each reenacted and amended to read as follows:

(1) Who may file a complaint:

(a) Any person claiming to be aggrieved by an alleged unfair practice may, personally or by his or her attorney, make, sign, and file with the commission a complaint in writing under oath or by declaration. The complaint shall state the name of the person alleged to have committed the unfair practice and the particulars thereof, and contain such other information as may be required by the commission.

(b) Whenever it has reason to believe that any person has been engaged or is engaging in an unfair practice, the commission may issue a complaint.

(c) Any employer or principal whose employees, or agents, or any of them, refuse or threaten to refuse to comply with the provisions of this chapter may file with the commission a written complaint under oath or by declaration asking for assistance by conciliation or other remedial action.

(2) Any complaint filed pursuant to this section must be so filed within six months after the alleged act of discrimination except that complaints alleging an unfair practice in a real estate transaction pursuant to RCW 49.60.222 through 49.60.225 must be so filed within one year after the alleged unfair practice in a real estate transaction has occurred or terminated and a complaint alleging whistleblower retaliation must be filed within two years.

Sec. 8. RCW 49.60.250 and 1993 c 510 s 23 and 1993 c 69 s 14 are each reenacted and amended to read as follows:

(1) In case of failure to reach an agreement for the elimination of such unfair practice, and upon the entry of findings to that effect, the entire file, including the complaint and any and all findings made, shall be certified to the chairperson of the commission. The chairperson of the commission shall thereupon request the appointment of an administrative law judge under Title 34 RCW to hear the complaint and shall cause to be issued and served in the name of the commission a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of the complaint at a hearing before the administrative law judge, at a time and place to be specified in such notice.

(2) The place of any such hearing may be the office of the commission or another place designated by it. The case in support of the complaint shall be presented at the hearing by counsel for the commission: PROVIDED, That the complainant may retain independent counsel and submit testimony and be fully heard. No member or employee of the commission who previously made the investigation or caused the notice to be issued shall participate in the hearing except as a witness, nor shall the member or employee participate in the deliberations of the administrative law judge in such case. Any endeavors or negotiations for conciliation shall not be received in evidence.

(3) The respondent shall file a written answer to the complaint and appear at the hearing in person or otherwise, with or without counsel, and submit testimony and be fully heard. The respondent has the right to cross-examine the complainant.

(4) The administrative law judge conducting any hearing may permit reasonable amendment to any complaint or answer. Testimony taken at the hearing shall be under oath and recorded.

(5) If, upon all the evidence, the administrative law judge finds that the respondent has engaged in any unfair practice, the administrative law judge shall state findings of fact and shall issue and file with the commission and cause to be served on such respondent an order requiring such respondent to cease and desist from such unfair practice and to take such affirmative action, including, (but not limited to) hiring, reinstatement or upgrading of employees, with or without back pay, an admission or restoration to full membership rights in any respondent organization, or to take such other action as, in the judgment of the administrative law judge, will effectuate the purposes of this chapter, including action that could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed ((~~ten~~)) twenty thousand dollars, and including a requirement for report of the matter on compliance. Relief available for violations of RCW 49.60.222 through 49.60.224 shall be limited to the relief specified in RCW 49.60.225.

(6) If a determination is made that retaliatory action, as defined in RCW 42.40.050, has been taken against a whistleblower, as defined in RCW 42.40.020, the administrative law judge may, in addition to any other remedy, require restoration of benefits, back pay, and any increases in compensation that would have occurred, with interest; impose a civil penalty upon the retaliator of up to ((~~three~~)) five thousand dollars; and issue an order to the state employer to suspend the retaliator for up to thirty days without pay. At a minimum, the administrative law judge shall require that a letter of reprimand be placed in the retaliator's personnel file. No agency shall issue any nondisclosure order or policy, execute any nondisclosure agreement, or spend any funds requiring information that is public under the public records act, chapter 42.56 RCW, be kept confidential; except that nothing in this section shall affect any state or federal law requiring information be kept confidential. All penalties recovered shall be paid into the state treasury and credited to the general fund.

(7) The final order of the administrative law judge shall include a notice to the parties of the right to obtain judicial review of the order by appeal in accordance with the provisions of RCW 34.05.510 through 34.05.598, and that such appeal must be served and filed within thirty days after the service of the order on the parties.

(8) If, upon all the evidence, the administrative law judge finds that the respondent has not engaged in any alleged unfair practice, the administrative law judge shall state findings of fact and shall similarly issue and file an order dismissing the complaint.

(9) An order dismissing a complaint may include an award of reasonable attorneys' fees in favor of the respondent if the administrative law judge concludes that the complaint was frivolous, unreasonable, or groundless.

(10) The commission shall establish rules of practice to govern, expedite, and effectuate the foregoing procedure.

(11) Instead of filing with the commission, a complainant may pursue arbitration conducted by the American arbitration association or another arbitrator mutually agreed by the parties, with the cost of arbitration shared equally by the complainant and the respondent.

Sec. 9. RCW 42.40.910 and 1999 c 361 s 7 are each amended to read as follows:

This act and chapter 361, Laws of 1999 ((~~does~~)) do not affect the jurisdiction of the legislative ethics board, the executive ethics board, or the commission on judicial conduct, as set forth in chapter 42.52 RCW. The senate, the house of representatives, and the supreme court shall adopt policies regarding the applicability of chapter 42.40 RCW to the senate, house of representatives, and judicial branch.

NEW SECTION. **Sec. 10.** 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. 11.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Eide moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6776 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator Eide that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6776 and ask the House to recede therefrom.

The motion by Senator Eide carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6776 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6792, with the following amendment: 6792-S.E AMH ENGR H5951.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.34.215 and 2007 c 413 s 1 are each amended to read as follows:

(1) A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:

(a) The child was previously found to be a dependent child under this chapter;

(b) The child's parent's rights were terminated in a proceeding under this chapter;

(c) The child has not achieved his or her permanency plan within three years of a final order of termination((~~, or if the final order was appealed, within three years of exhaustion of any right to appeal the order terminating parental rights~~)); and

(d) ((~~Absent good cause,~~)) The child must be at least twelve years old at the time the petition is filed. Upon the child's motion for good cause shown, or on its own motion, the court may hear a petition filed by a child younger than twelve years old.

(2) A child seeking to petition under this section shall be provided counsel at no cost to the child.

(3) The petition must be signed by the child in the absence of a showing of good cause as to why the child could not do so.

(4) If, after a threshold hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, ((~~it appears~~)) the court finds by a preponderance of the evidence that the best interests of the child may be served by reinstatement of parental rights, the juvenile court shall order that a hearing on the merits of the petition be held.

(5) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department, the child's attorney, and the child. The court shall also order the department to give prior notice of any hearing to the child's former parent whose parental rights are the subject of the petition, any parent whose rights have not been terminated, the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(6) The juvenile court shall conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not likely to imminently achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interest. In determining whether reinstatement is in the child's best interest the court shall consider, but is not limited to, the following:

(a) Whether the parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order;

(b) The age and maturity of the child, and the ability of the child to express his or her preference;

(c) Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety; and

(d) Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition.

(7) In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the department shall provide the court, and the court shall review, information related to any efforts to achieve the permanency plan including efforts to achieve adoption or a permanent guardianship.

(8)(a) If the court conditionally grants the petition under subsection (6) of this section, the case will be continued for six months and a temporary order of reinstatement entered. During this period, the child shall be placed in the custody of the parent. The department shall develop a permanency plan for the child reflecting the plan to be reunification and shall provide transition services to the family as appropriate.

(b) If the child must be removed from the parent due to abuse or neglect allegations prior to the expiration of the conditional six-month period, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(c) If the child has been successfully placed with the parent for six months, the court order reinstating parental rights remains in effect and the court shall dismiss the dependency.

(9) After the child has been placed with the parent for six months, the court shall hold a hearing. If the placement with the parent has been successful, the court shall enter a final order of reinstatement of parental rights, which shall restore all rights, powers, privileges, immunities, duties, and obligations of the parent as to the child, including those relating to custody, control, and support of the child. The court shall dismiss the dependency and direct the clerk's office to provide a certified copy of the final order of reinstatement of parental rights to the parent at no cost.

(10) The granting of the petition under this section does not vacate or otherwise affect the validity of the original termination order.

((~~(10)~~)) (11) Any parent whose rights are reinstated under this section shall not be liable for any child support owed to the department pursuant to RCW 13.34.160 or Title 26 RCW or

costs of other services provided to a child for the time period from the date of termination of parental rights to the date parental rights are reinstated.

((~~(11)~~)) (12) A proceeding to reinstate parental rights is a separate action from the termination of parental rights proceeding and does not vacate the original termination of parental rights. An order granted under this section reinstates the parental rights to the child. This reinstatement is a recognition that the situation of the parent and child have changed since the time of the termination of parental rights and reunification is now appropriate.

((~~(12)~~)) (13) This section is retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

(14) The state, the department, and its employees are not liable for civil damages resulting from any act or omission in the provision of services under this section, unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists. This section does not create a cause of action against the state, the department, or its employees concerning the original termination.

Sec. 2. RCW 13.34.065 and 2007 c 413 s 5 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) The department of social and health services shall submit a recommendation to the court as to the further need for shelter care in all cases in which it is the petitioner. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home;

(e) Is the placement proposed by the agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in 25 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare act apply, and whether there is compliance with the Indian child welfare act, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive ((~~parent~~)) household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. ((~~However,~~)) The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service, except that if the court determines there is reasonable cause to believe the abuse of alcohol or controlled substances or unmet mental health needs are contributing factors to the alleged abuse or neglect or inability to properly provide care for the child, the court may order the parent to participate in a comprehensive chemical dependency or mental health evaluation as arranged by the department;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, ((~~and the child was initially placed with a relative pursuant to RCW 13.34.060(1),~~)) the court shall order ((~~continued~~)) placement with a relative, unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The relative must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative pursuant to RCW 13.34.060(1).

(d) If a relative is not available, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other person approved by the court pursuant to this section, shall be contingent upon cooperation with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative under (b) of this subsection or with another suitable person under (d) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

Sec. 3. RCW 13.34.136 and 2007 c 413 s 7 are each amended to read as follows:

(1) Whenever a child is ordered removed from the home, a permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(2) The agency supervising the dependency shall submit a written permanency plan to all parties and the court not less than fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the supervising agency's proposed permanency plan must be provided to the supervising agency, all other parties, and the court at least seven days prior to the hearing.

The permanency plan shall include:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; permanent legal custody; long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; successful completion of a responsible living skills program; or independent living, if appropriate and if the child is age sixteen or older. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW;

(b) Unless the court has ordered, pursuant to RCW 13.34.130((~~(4)~~)) (5), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the agency will take to promote existing appropriate sibling relationships and/or facilitate placement together or contact in accordance with the best interests of each child, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The agency plan shall specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement.

(ii) Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The agency shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation. Visitation may be limited or denied only if the court determines that such

limitation or denial is necessary to protect the child's health, safety, or welfare. The court and the agency should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The plan shall state whether both in-state and, where appropriate, out-of-state placement options have been considered by the department.

(v) Unless it is not in the best interests of the child, whenever practical, the plan should ensure the child remains enrolled in the school the child was attending at the time the child entered foster care.

(vi) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department has existing contracts to purchase. It shall report to the court if it is unable to provide such services; and

(c) If the court has ordered, pursuant to RCW 13.34.130((~~(4)~~)) (5), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The agency shall not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings shall be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

(3) Permanency planning goals should be achieved at the earliest possible date((~~, preferably before~~)). If the child has been in out-of-home care for fifteen of the most recent twenty-two months, the court shall require the department to file a petition seeking termination of parental rights in accordance with RCW 13.34.145(3)(b)(vi). In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(4) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

(5) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

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

(7) For purposes related to permanency planning:

(a) "Guardianship" means a dependency guardianship or a legal guardianship pursuant to chapter 11.88 RCW or equivalent laws of another state or a federally recognized Indian tribe.

(b) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.

(c) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or a federally recognized Indian tribe.

Sec. 4. RCW 13.34.145 and 2007 c 413 s 9 are each amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to agency staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the agency to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

At this hearing, the court shall order the department to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child. For purposes of this section, "good cause exception" includes but is not limited to the following: The child is being cared for by a relative; the department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home; or the department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests.

(c)(i) If the permanency plan identifies independent living as a goal, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care.

(ii) The permanency plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living.

(iii) The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(d) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall also enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280 ((~~and 13.34.138~~)), 13.34.215(5), and 13.34.096.

(4) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(5) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(6) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(7) If the court orders the child returned home, casework supervision shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(8) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(9) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (8) of this section are met.

(10) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

Sec. 5. RCW 26.44.063 and 2000 c 119 s 12 are each amended to read as follows:

(1) It is the intent of the legislature to minimize trauma to a child involved in an allegation of sexual or physical abuse. The legislature declares that removing the child from the home or the care of a parent, guardian, or legal custodian often has the effect of further traumatizing the child. It is, therefore, the legislature's intent that the alleged ((~~offender~~)) abuser, rather than the child, shall be removed or restrained from the ((~~home~~)) child's residence and that this should be done at the earliest possible point of intervention in accordance with RCW 10.31.100, ((~~13.34.130~~)) chapter 13.34 RCW, this section, and RCW 26.44.130.

(2) In any judicial proceeding in which it is alleged that a child has been subjected to sexual or physical abuse, if the court finds reasonable grounds to believe that an incident of sexual or physical abuse has occurred, the court may, on its own motion, or the motion of the guardian ad litem or other parties, issue a temporary restraining order or preliminary injunction restraining or enjoining the person accused of committing the abuse from:

(a) Molesting or disturbing the peace of the alleged victim;

(b) Entering the family home of the alleged victim except as specifically authorized by the court;

(c) Having any contact with the alleged victim, except as specifically authorized by the court;

(d) Knowingly coming within, or knowingly remaining within, a specified distance of a specified location.

(3) If the caretaker is willing, and does comply with the duties prescribed in subsection (8) of this section, uncertainty by the caretaker that the alleged abuser has in fact abused the alleged victim shall not, alone, be a basis to remove the alleged victim from the caretaker, nor shall it be considered neglect.

(4) In issuing a temporary restraining order or preliminary injunction, the court may impose any additional restrictions that the court in its discretion determines are necessary to protect the

child from further abuse or emotional trauma pending final resolution of the abuse allegations.

((~~(4)~~)) (5) The court shall issue a temporary restraining order prohibiting a person from entering the family home if the court finds that the order would eliminate the need for an out-of-home placement to protect the child's right to nurturance, health, and safety and is sufficient to protect the child from further sexual or physical abuse or coercion.

((~~(5)~~)) (6) The court may issue a temporary restraining order without requiring notice to the party to be restrained or other parties only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

((~~(6)~~)) (7) A temporary restraining order or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding; and

(b) May be revoked or modified.

((~~(7)~~)) (8) The person having physical custody of the child shall have an affirmative duty to assist in the enforcement of the restraining order including but not limited to a duty to notify the court as soon as practicable of any violation of the order, a duty to request the assistance of law enforcement officers to enforce the order, and a duty to notify the department of social and health services of any violation of the order as soon as practicable if the department is a party to the action. Failure by the custodial party to discharge these affirmative duties shall be subject to contempt proceedings.

((~~(8)~~)) (9) Willful violation of a court order entered under this section is a misdemeanor. A written order shall contain the court's directive and shall bear the legend: "Violation of this order with actual notice of its terms is a criminal offense under chapter 26.44 RCW, is also subject to contempt proceedings, and will subject a violator to arrest."

((~~(9)~~)) (10) If a restraining order issued under this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

Sec. 6. RCW 71.24.035 and 2007 c 414 s 2, 2007 c 410 s 8, and 2007 c 375 s 12 are each reenacted and amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary shall provide for public, client, and licensed service provider participation in developing the state mental health program, developing contracts with regional support networks, and any waiver request to the federal government under medicaid.

(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the regional support network if the regional support network fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates regional biennial needs assessments and regional mental health service plans and state services for adults and children with mental illness. The secretary shall also develop a six-year state mental health plan;

(b) Assure that any regional or county community mental health program provides access to treatment for the region's residents, including parents who are ((~~defendants~~)) respondents in dependency cases, in the following order of priority: (i) Persons with acute mental illness; (ii) adults with chronic mental illness and children who are severely emotionally disturbed; and (iii) persons who are seriously disturbed. Such programs shall provide:

(A) Outpatient services;

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

(C) Day treatment for persons with mental illness which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related services, that result in persons with mental illness becoming engaged in meaningful and gainful full or part-time work. Other sources of funding such as the division of vocational rehabilitation may be utilized by the secretary to maximize federal funding and provide for integration of services;

(F) Consultation and education services; and

(G) Community support services;

(c) Develop and adopt rules establishing state minimum standards for the delivery of mental health services pursuant to RCW 71.24.037 including, but not limited to:

(i) Licensed service providers. These rules shall permit a county-operated mental health program to be licensed as a service provider subject to compliance with applicable statutes and rules. The secretary shall provide for deeming of compliance with state minimum standards for those entities accredited by recognized behavioral health accrediting bodies recognized and having a current agreement with the department;

(ii) Regional support networks; and

(iii) Inpatient services, evaluation and treatment services and facilities under chapter 71.05 RCW, resource management services, and community support services;

(d) Assure that the special needs of persons who are minorities, elderly, disabled, children, low-income, and parents who are ((~~defendants~~)) respondents in dependency cases are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards and RCW 71.24.320((~~,~~)) and 71.24.330((~~, and 71.24.3201~~)), which shall be used in contracting with regional support networks. The standard contract shall include a maximum fund balance, which shall be consistent with that required by federal regulations or waiver stipulations;

(f) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of regional support networks and licensed service providers. The audit procedure shall focus on the outcomes of service and not the processes for accomplishing them;

(g) Develop and maintain an information system to be used by the state and regional support networks that includes a tracking method which allows the department and regional support networks to identify mental health clients' participation in any mental health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

(h) License service providers who meet state minimum standards;

(i) Certify regional support networks that meet state minimum standards;

(j) Periodically monitor the compliance of certified regional support networks and their network of licensed service providers for compliance with the contract between the department, the

regional support network, and federal and state rules at reasonable times and in a reasonable manner;

(k) Fix fees to be paid by evaluation and treatment centers to the secretary for the required inspections;

(l) Monitor and audit regional support networks and licensed service providers as needed to assure compliance with contractual agreements authorized by this chapter;

(m) Adopt such rules as are necessary to implement the department's responsibilities under this chapter;

(n) Assure the availability of an appropriate amount, as determined by the legislature in the operating budget by amounts appropriated for this specific purpose, of community-based, geographically distributed residential services;

(o) Certify crisis stabilization units that meet state minimum standards; and

(p) Certify clubhouses that meet state minimum standards.

(6) The secretary shall use available resources only for regional support networks, except to the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act.

(7) Each certified regional support network and licensed service provider shall file with the secretary, on request, such data, statistics, schedules, and information as the secretary reasonably requires. A certified regional support network or licensed service provider which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may have its certification or license revoked or suspended.

(8) The secretary may suspend, revoke, limit, or restrict a certification or license, or refuse to grant a certification or license for failure to conform to: (a) The law; (b) applicable rules and regulations; (c) applicable standards; or (d) state minimum standards.

(9) The superior court may restrain any regional support network or service provider from operating without certification or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(10) Upon petition by the secretary, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any regional support network or service provider refusing to consent to inspection or examination by the authority.

(11) Notwithstanding the existence or pursuit of any other remedy, the secretary may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a regional support network or service provider without certification or a license under this chapter.

(12) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall otherwise assure the effectuation of the purposes of these chapters.

(13) The standards for certification of crisis stabilization units shall include standards that:

(a) Permit location of the units at a jail facility if the unit is physically separate from the general population of the jail;

(b) Require administration of the unit by mental health professionals who direct the stabilization and rehabilitation efforts; and

(c) Provide an environment affording security appropriate with the alleged criminal behavior and necessary to protect the public safety.

(14) The standards for certification of a clubhouse shall at a minimum include:

(a) The facilities may be peer-operated and must be recovery-focused;

(b) Members and employees must work together;

(c) Members must have the opportunity to participate in all the work of the clubhouse, including administration, research, intake and orientation, outreach, hiring, training and evaluation of staff, public relations, advocacy, and evaluation of clubhouse effectiveness;

(d) Members and staff and ultimately the clubhouse director must be responsible for the operation of the clubhouse, central to this responsibility is the engagement of members and staff in all aspects of clubhouse operations;

(e) Clubhouse programs must be comprised of structured activities including but not limited to social skills training, vocational rehabilitation, employment training and job placement, and community resource development;

(f) Clubhouse programs must provide in-house educational programs that significantly utilize the teaching and tutoring skills of members and assist members by helping them to take advantage of adult education opportunities in the community;

(g) Clubhouse programs must focus on strengths, talents, and abilities of its members;

(h) The work-ordered day may not include medication clinics, day treatment, or other therapy programs within the clubhouse.

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

(16) The secretary shall assume all duties assigned to the nonparticipating regional support networks under chapters 71.05, 71.34, and 71.24 RCW. Such responsibilities shall include those which would have been assigned to the nonparticipating counties in regions where there are not participating regional support networks.

The regional support networks, or the secretary's assumption of all responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be included in all state and federal plans affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(17) The secretary shall:

(a) Disburse funds for the regional support networks within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with regional support networks. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) Notify regional support networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(d) Deny all or part of the funding allocations to regional support networks based solely upon formal findings of noncompliance with the terms of the regional support network's contract with the department. Regional support networks disputing the decision of the secretary to withhold funding allocations are limited to the remedies provided in the department's contracts with the regional support networks.

(18) The department, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by free-standing evaluation and treatment facilities certified under chapter 71.05 RCW. The department shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

Sec. 7. RCW 74.13.031 and 2007 c 413 s 10 are each amended to read as follows:

The department shall have the duty to provide child welfare services and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency((~~: PROVIDED, That~~)). An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) ((~~Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report measuring the extent to which the department achieved the specified goals to the governor and the legislature~~)) Monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. The policy for monitoring placements under this section shall require that children in out-of-home care and in-home dependencies and their caregivers receive a private and individual face-to-face visit each month.

(a) The department shall conduct the monthly visits with children and caregivers required under this section unless the child's placement is being supervised under a contract between the department and a private agency accredited by a national child welfare accrediting entity, in which case the private agency shall, within existing resources, conduct the monthly visits with the child and with the child's caregiver according to the standards described in this subsection and shall provide the department with a written report of the visits within fifteen days of completing the visits.

(b) In cases where the monthly visits required under this subsection are being conducted by a private agency, the department shall conduct a face-to-face health and safety visit with the child at least once every ninety days.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10)(a) Have authority to provide continued foster care or group care as needed to participate in or complete a high school or vocational school program.

(b)(i) Beginning in 2006, the department has the authority to allow up to fifty youth reaching age eighteen to continue in foster care or group care as needed to participate in or complete a posthigh school academic or vocational program, and to receive necessary support and transition services.

(ii) In 2007 and 2008, the department has the authority to allow up to fifty additional youth per year reaching age eighteen to remain in foster care or group care as provided in (b)(i) of this subsection.

(iii) A youth who remains eligible for such placement and services pursuant to department rules may continue in foster care or group care until the youth reaches his or her twenty-first birthday. Eligibility requirements shall include active enrollment in a posthigh school academic or vocational program and maintenance of a 2.0 grade point average.

(11) Refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(12) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(13) Within amounts appropriated for this specific purpose, provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(14) Have authority to provide independent living services to youths, including individuals who have attained eighteen

years of age, and have not attained twenty-one years of age who are or have been in foster care.

(15) Consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

NEW SECTION. **Sec. 8.** A new section is added to chapter 74.13 RCW to read as follows:

(1) For the purpose of assisting foster youth in obtaining a Washington state identicard, submission of the information and materials listed in this subsection from the department to the department of licensing is sufficient proof of identity and residency and shall serve as the necessary authorization for the youth to apply for and obtain a Washington state identicard:

(a) A written signed statement prepared on department letterhead, verifying the following:

(i) The youth is a minor who resides in Washington;

(ii) Pursuant to a court order, the youth is dependent and the department or other supervising agency is the legal custodian of the youth under chapter 13.34 RCW or under the interstate compact on the placement of children;

(iii) The youth's full name and date of birth;

(iv) The youth's social security number, if available;

(v) A brief physical description of the youth;

(vi) The appropriate address to be listed on the youth's identicard; and

(vii) Contact information for the appropriate person at the department.

(b) A photograph of the youth, which may be digitized and integrated into the statement.

(2) The department may provide the statement and the photograph via any of the following methods, whichever is most efficient or convenient:

(a) Delivered via first-class mail or electronically to the headquarters office of the department of licensing; or

(b) Hand-delivered to a local office of the department of licensing by a department case worker.

(3) A copy of the statement shall be provided to the youth who shall provide the copy to the department of licensing when making an in-person application for a Washington state identicard.

(4) To the extent other identifying information is readily available, the department shall include the additional information with the submission of information required under subsection (1) of this section.

Sec. 9. RCW 46.20.035 and 2004 c 249 s 2 are each amended to read as follows:

The department may not issue an identicard or a Washington state driver's license that is valid for identification purposes unless the applicant meets the identification requirements of subsection (1), (2), or (3) of this section.

(1) A driver's license or identicard applicant must provide the department with at least one of the following pieces of valid identifying documentation that contains the signature and a photograph of the applicant:

(a) A valid or recently expired driver's license or instruction permit that includes the date of birth of the applicant;

(b) A Washington state identicard or an identification card issued by another state;

(c) An identification card issued by the United States, a state, or an agency of either the United States or a state, of a kind commonly used to identify the members or employees of the government agency;

(d) A military identification card;

(e) A United States passport; or

(f) An Immigration and Naturalization Service form.

(2) An applicant who is a minor may establish identity by providing an affidavit of the applicant's parent or guardian. The parent or guardian must accompany the minor and display or provide:

(a) At least one piece of documentation in subsection (1) of this section establishing the identity of the parent or guardian; and

(b) Additional documentation establishing the relationship between the parent or guardian and the applicant.

(3) A person unable to provide identifying documentation as specified in subsection (1) or (2) of this section may request that the department review other available documentation in order to ascertain identity. The department may waive the requirement if it finds that other documentation clearly establishes the identity of the applicant. Notwithstanding the requirements in subsection (2) of this section, the department shall issue an identicard to an applicant for whom it receives documentation pursuant to section 8 of this act.

(4) An identicard or a driver's license that includes a photograph that has been renewed by mail or by electronic commerce is valid for identification purposes if the applicant met the identification requirements of subsection (1), (2), or (3) of this section at the time of previous issuance.

(5) The form of an applicant's name, as established under this section, is the person's name of record for the purposes of this chapter.

(6) If the applicant is unable to prove his or her identity under this section, the department shall plainly label the license "not valid for identification purposes."

Sec. 10. RCW 41.06.142 and 2002 c 354 s 208 are each amended to read as follows:

(1) Any department, agency, or institution of higher education may purchase services, including services that have been customarily and historically provided by employees in the classified service under this chapter, by contracting with individuals, nonprofit organizations, businesses, employee business units, or other entities if the following criteria are met:

(a) The invitation for bid or request for proposal contains measurable standards for the performance of the contract;

(b) Employees in the classified service whose positions or work would be displaced by the contract are provided an opportunity to offer alternatives to purchasing services by contract and, if these alternatives are not accepted, compete for the contract under competitive contracting procedures in subsection (4) of this section;

(c) The contract with an entity other than an employee business unit includes a provision requiring the entity to consider employment of state employees who may be displaced by the contract;

(d) The department, agency, or institution of higher education has established a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards; and

(e) The department, agency, or institution of higher education has determined that the contract results in savings or efficiency improvements. The contracting agency must consider the consequences and potential mitigation of improper or failed performance by the contractor.

(2) Any provision contrary to or in conflict with this section in any collective bargaining agreement in effect on July 1, 2005, is not effective beyond the expiration date of the agreement.

(3) Contracting for services that is expressly mandated by the legislature or was authorized by law prior to July 1, 2005, including contracts and agreements between public entities, shall not be subject to the processes set forth in subsections (1) ((~~and~~)), (4) ((~~through (6)~~)), and (5) of this section.

(4) Competitive contracting shall be implemented as follows:

(a) At least ninety days prior to the date the contracting agency requests bids from private entities for a contract for services provided by classified employees, the contracting agency shall notify the classified employees whose positions or work would be displaced by the contract. The employees shall have sixty days from the date of notification to offer alternatives to purchasing services by contract, and the agency shall consider the alternatives before requesting bids.

(b) If the employees decide to compete for the contract, they shall notify the contracting agency of their decision. Employees must form one or more employee business units for the purpose of submitting a bid or bids to perform the services.

(c) The director of personnel, with the advice and assistance of the department of general administration, shall develop and make available to employee business units training in the bidding process and general bid preparation.

(d) The director of general administration, with the advice and assistance of the department of personnel, shall, by rule, establish procedures to ensure that bids are submitted and evaluated in a fair and objective manner and that there exists a competitive market for the service. Such rules shall include, but not be limited to: (i) Prohibitions against participation in the bid evaluation process by employees who prepared the business unit's bid or who perform any of the services to be contracted; (ii) provisions to ensure no bidder receives an advantage over other bidders and that bid requirements are applied equitably to all parties; and (iii) procedures that require the contracting agency to receive complaints regarding the bidding process and to consider them before awarding the contract. Appeal of an agency's actions under this subsection is an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW, the administrative procedure act, with the final decision to be rendered by an administrative law judge assigned under chapter 34.12 RCW.

(e) An employee business unit's bid must include the fully allocated costs of the service, including the cost of the employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the function. An employee business unit's cost shall not include the state's indirect overhead costs unless those costs can be attributed directly to the function in question and would not exist if that function were not performed in state service.

(f) A department, agency, or institution of higher education may contract with the department of general administration to conduct the bidding process.

(5) As used in this section:

(a) "Employee business unit" means a group of employees who perform services to be contracted under this section and who submit a bid for the performance of those services under subsection (4) of this section.

(b) "Indirect overhead costs" means the pro rata share of existing agency administrative salaries and benefits, and rent, equipment costs, utilities, and materials associated with those administrative functions.

(c) "Competitive contracting" means the process by which classified employees of a department, agency, or institution of higher education compete with businesses, individuals, nonprofit organizations, or other entities for contracts authorized by subsection (1) of this section.

(6) ((~~The joint legislative audit and review committee shall conduct a performance audit of the implementation of this section, including the adequacy of the appeals process in subsection (4)(d) of this section, and report to the legislature by January 1, 2007, on the results of the audit.~~)) The requirements of this section do not apply to RCW 74.13.031(5).

NEW SECTION. **Sec. 11.** A new section is added to chapter 74.15 RCW to read as follows:

To be eligible for placement in a HOPE center, a minor must be either a street youth, as that term is defined in this chapter, or a youth who, without placement in a HOPE center, will continue to participate in increasingly risky behavior. Youth may also self-refer to a HOPE center. Payment for a HOPE center bed is not contingent upon prior approval by the department.

Sec. 12. RCW 74.15.240 and 1999 c 267 s 14 are each amended to read as follows:

To be eligible for placement in a responsible living skills program, the minor must be dependent under chapter 13.34 RCW and must have lived in a HOPE center or in a secure crisis residential center. However, if the minor's caseworker determines that placement in a responsible living skills program would be the most appropriate placement given the minor's current circumstances, prior residence in a HOPE center or secure crisis residential center before placement in a responsible living program is not required. Responsible living skills centers are intended as a placement alternative for dependent youth that the department chooses for the youth because no other services or alternative placements have been successful. Responsible living skills centers are not for dependent youth whose permanency plan includes return to home or family reunification.

NEW SECTION. **Sec. 13.** A new section is added to chapter 13.34 RCW to read as follows:

(1) A child who is age twelve years or older and who is the subject of a dependency under this chapter has the following rights with respect to all hearings conducted on his or her behalf under this chapter:

(a) The right to receive notice of the proceedings and hearings;

(b) The right to be present at hearings; and

(c) The right to be heard personally.

(2) At the request of the child, the child's guardian ad litem or attorney, or upon the court's own motion, the court may conduct an interview with the child in chambers to determine the child's wishes as to the issues pending before the court. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to be made part of the record in the case.

(3) A child's right to attend a hearing conducted on his or her behalf and to be heard by the court cannot be denied or limited by the court absent a specific written finding by the court that such denial or limitation is in the best interests of the child and necessary for the health, safety, and welfare of the child.

(4) Prior to each hearing, the child's guardian ad litem or attorney shall determine if the child wishes to be present and to be heard at the hearing. If the child wishes to attend the hearing, the guardian ad litem or attorney shall coordinate with the child's caregiver and the department or supervising agency to make arrangements for the child to attend the hearing. Nothing in this subsection shall be construed to create a duty on the department or supervising agency to transport the child.

Sec. 14. RCW 13.34.096 and 2007 c 409 s 1 are each amended to read as follows:

(1) Prior to each proceeding held with respect to a child in juvenile court under this chapter, the department of social and health services or other supervising agency shall provide notice of the right to be present and to be heard:

(a) To the child's foster parents, preadoptive parents, or other caregivers ((~~with notice of their right to be heard prior to each proceeding held with respect to the child in juvenile court under this chapter~~)); and

(b) To the child if the child is age twelve years or older.

(2) The rights to notice and to be heard apply only to the child and persons with whom ((~~a~~)) the child has been placed by the department or other supervising agency and who are providing care to the child at the time of the proceeding. This section shall not be construed to grant party status to any person solely on the basis of such notice and right to be heard.

Sec. 15. RCW 13.34.105 and 2000 c 124 s 4 are each amended to read as follows:

(1) Unless otherwise directed by the court, the duties of the guardian ad litem for a child subject to a proceeding under this chapter, including an attorney specifically appointed by the

court to serve as a guardian ad litem, include but are not limited to the following:

(a) To investigate, collect relevant information about the child's situation, and report to the court factual information regarding the best interests of the child;

(b) To meet with, interview, or observe the child, depending on the child's age and developmental status, and report to the court any views or positions expressed by the child on issues pending before the court;

(c) To monitor all court orders for compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order;

(((~~(c)~~))) (d) To report to the court information on the legal status of a child's membership in any Indian tribe or band;

(((~~(d)~~))) (e) Court-appointed special advocates and guardians ad litem may make recommendations based upon an independent investigation regarding the best interests of the child, which the court may consider and weigh in conjunction with the recommendations of all of the parties; and

(((~~(e)~~))) (f) To represent and be an advocate for the best interests of the child.

(2) A guardian ad litem shall be deemed an officer of the court for the purpose of immunity from civil liability.

(3) Except for information or records specified in RCW 13.50.100(((~~(5)~~))) (7), the guardian ad litem shall have access to all information available to the state or agency on the case. Upon presentation of the order of appointment by the guardian ad litem, any agency, hospital, school organization, division or department of the state, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the guardian ad litem to inspect and copy any records relating to the child or children involved in the case, without the consent of the parent or guardian of the child, or of the child if the child is under the age of thirteen years, unless such access is otherwise specifically prohibited by law.

(4) A guardian ad litem may release confidential information, records, and reports to the office of the family and children's ombudsman for the purposes of carrying out its duties under chapter 43.06A RCW.

(5) The guardian ad litem shall release case information in accordance with the provisions of RCW 13.50.100.

NEW SECTION. **Sec. 16.** Section 7 of this act takes effect December 31, 2008.

NEW SECTION. **Sec. 17.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6792 and ask the House to recede therefrom.

Senators Regala spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Regala that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6792 and ask the House to recede therefrom.

The motion by Senator Regala carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6792 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

March 10, 2008

MR. PRESIDENT:

The House refuses to concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2878 and asks the Senate for a conference thereon. Speaker has appointed the following members as Conferees:

Representatives: Clibborn, Jarrett & Ericksen

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Haugen, the Senate granted the request of the House for a conference on Engrossed Substitute House Bill No. 2878 and the Senate amendment(s) thereto.

Senator Swecker spoke in favor of the motion.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute House Bill No. 2878 and the House amendment(s) thereto: Senators Haugen, Marr and Swecker.

MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

MESSAGE FROM THE HOUSE

March 8, 2008

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 2525 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate recede from its position on Substitute House Bill No. 2525 and pass the bill without the Senate amendment(s).

The President declared the question before the Senate to be motion by Senator Jacobsen that the Senate recede from its position on Substitute House Bill No. 2525 and pass the bill without Senate amendment(s).

The motion by Senator Jacobsen carried and the Senate receded from its position on Substitute House Bill No. 2525 and pass the bill without Senate amendment(s).

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2525, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama,

Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Voting nay: Senators Fairley and Fraser - 2

SUBSTITUTE HOUSE BILL NO. 2525, without the Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Honeyford, the President finds on Senate Bill No. 6332: the underlying bill did, one thing and one thing only. It increased the Housing Finance Commission's debt limit from 4.5 billion to 6.5 billion. The house amendment goes far beyond the underlying bill adding a number of responsibilities. Therefore the President finds the amendments are outside the scope and object of the bill and Senator Honeyford's point of order is well taken."

MOTION

Senator Weinstein moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 6332 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator Weinstein that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 6332 and ask the House to recede therefrom.

The motion by Senator Weinstein carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 6332 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6855, with the following amendment: 6855-S2 AMH ORMS H5981.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.160.010 and 1999 c 164 s 101 and 1999 c 94 s 5 are each reenacted and amended to read as follows:

(1) The legislature finds that it is the public policy of the state of Washington to direct financial resources toward the fostering of economic development through the stimulation of investment and job opportunities and the retention of sustainable existing employment for the general welfare of the inhabitants of the state. Reducing unemployment and reducing the time citizens remain jobless is important for the economic welfare of the state. A valuable means of fostering economic development is the construction of public facilities which contribute to the stability and growth of the state's economic base. ((~~Strengthening the economic base through issuance of industrial development bonds, whether single or umbrella, further serves to reduce unemployment. Consolidating issues of industrial development bonds when feasible to reduce costs additionally advances the state's purpose to improve economic vitality.~~)) Expenditures made for these purposes as authorized in this chapter are declared to be in the public interest, and constitute a proper use of public funds. A community economic revitalization board is needed which shall aid the development of economic opportunities. The general objectives of the board should include:

(a) Strengthening the economies of areas of the state which have experienced or are expected to experience chronically high unemployment rates or below average growth in their economies;

(b) Encouraging the diversification of the economies of the state and regions within the state in order to provide greater seasonal and cyclical stability of income and employment;

(c) Encouraging wider access to financial resources for both large and small industrial development projects;

(d) Encouraging new economic development or expansions to maximize employment;

(e) Encouraging the retention of viable existing firms and employment; and

(f) Providing incentives for expansion of employment opportunities for groups of state residents that have been less successful relative to other groups in efforts to gain permanent employment.

(2) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to improve state highways, county roads, or city streets for industries considering locating or expanding in this state.

((~~(a)~~)) (3) The legislature finds it desirable to provide a process whereby the need for diverse public works improvements necessitated by planned economic development can be addressed in a timely fashion and with coordination among all responsible governmental entities.

((~~(b) All transportation improvements on state highways must first be approved by the state transportation commission and the community economic revitalization board in accordance with the procedures established by RCW 43.160.074 and 47.01.280.~~

~~(3)~~)) (4) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to assist development of telecommunications infrastructure that supports business development, retention, and expansion in ((~~rural natural resources impact areas and rural counties of~~)) the state.

((~~(4)~~)) (5) The legislature also finds that the state's economic development efforts can be enhanced by providing funds to improve markets for those recyclable materials representing a large fraction of the waste stream. The legislature finds that public facilities which result in private construction of processing or remanufacturing facilities for recyclable materials are eligible for consideration from the board.

((~~(5)~~)) (6) The legislature finds that sharing economic growth statewide is important to the welfare of the state. ((~~Rural counties and rural natural resources impact areas do not share in the economic vitality of the Puget Sound region.~~)) The ability of ((~~these~~)) communities to pursue business and job retention, expansion, and development opportunities depends on their capacity to ready necessary economic development project plans, sites, permits, and infrastructure for private investments. Project-specific planning, predevelopment, and infrastructure are critical ingredients for economic development. ((~~Rural counties and rural natural resources impact areas generally lack these necessary tools and resources to diversify and revitalize their economies.~~)) It is, therefore, the intent of the legislature to increase the amount of funding available through the community economic revitalization board ((~~for rural counties and rural natural resources impact areas,~~)) and to authorize flexibility for available resources in these areas to help fund planning, predevelopment, and construction costs of infrastructure and facilities and sites that foster economic vitality and diversification.

Sec. 2. RCW 43.160.020 and 2004 c 252 s 1 are each amended to read as follows:

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

(1) "Board" means the community economic revitalization board.

(2) ((~~"Bond" means any bond, note, debenture, interim certificate, or other evidence of financial indebtedness issued by the board pursuant to this chapter.~~

~~(3)~~)) "Department" means the department of community, trade, and economic development.

(((~~(4) "Financial institution" means any bank, savings and loan association, credit union, development credit corporation, insurance company, investment company, trust company, savings institution, or other financial institution approved by the board and maintaining an office in the state.~~

~~(5) "Industrial development facilities" means "industrial development facilities" as defined in RCW 39.84.020.~~

~~(6) "Industrial development revenue bonds" means tax-exempt revenue bonds used to fund industrial development facilities.~~

~~(7)~~)) (3) "Local government" or "political subdivision" means any port district, county, city, town, special purpose district, and any other municipal corporations or quasi-municipal corporations in the state providing for public facilities under this chapter.

(((~~(8) "Sponsor" means any of the following entities which customarily provide service or otherwise aid in industrial or other financing and are approved as a sponsor by the board: A bank, trust company, savings bank, investment bank, national banking association, savings and loan association, building and loan association, credit union, insurance company, or any other financial institution, governmental agency, or holding company of any entity specified in this subsection.~~

~~(9) "Umbrella bonds" means industrial development revenue bonds from which the proceeds are loaned, transferred, or otherwise made available to two or more users under this chapter.~~

~~(10) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and receiving or applying to receive revenues from bonds issued under this chapter.~~

~~(11)~~)) (4) "Public facilities" means a project of a local government or a federally recognized Indian tribe for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of bridges, roads, domestic and industrial water, earth stabilization, sanitary sewer, storm sewer, railroad, electricity, telecommunications, transportation, natural gas, buildings or structures, and port facilities, all for the purpose of job creation, job retention, or job expansion.

(((~~(12)~~)) (5) "Rural county" means a county with a population density of fewer than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles, as determined by the office of financial management and published each year by the department for the period July 1st to June 30th.

(((~~(13) "Rural natural resources impact area" means:~~

~~(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets three of the five criteria set forth in subsection (14) of this section;~~

~~(b) A nonmetropolitan county with a population of less than forty thousand in the 1990 decennial census, that meets two of the five criteria as set forth in subsection (14) of this section; or~~

~~(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets three of the five criteria set forth in subsection (14) of this section.~~

~~(14) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:~~

~~(a) A lumber and wood products employment location quotient at or above the state average;~~

~~(b) A commercial salmon fishing employment location quotient at or above the state average;~~

~~(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;~~

~~(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and~~

~~(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area of which any part is ten miles or more from an urbanized area is considered nonurbanized. A zip code totally surrounded by zip codes qualifying as nonurbanized under this definition is also considered nonurbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter.~~))

Sec. 3. RCW 43.160.030 and 2004 c 252 s 2 are each amended to read as follows:

(1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of one member from each of the two major caucuses of the house of representatives to be appointed by the speaker of the house and one member from each of the two major caucuses of the senate to be appointed by the president of the senate. The board shall also consist of the following members appointed by the governor: A recognized private or public sector economist; one port district official; one county official; one city official; one representative of a federally recognized Indian tribe; one representative of the public; one representative of small businesses each from: (a) The area west of Puget Sound, (b) the area east of Puget Sound and west of the Cascade range, (c) the area east of the Cascade range and west of the Columbia river, and (d) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members shall initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms which shall include the chair. Thereafter each succeeding term shall be for three years. The chair of the board shall be selected by the governor. The members of the board shall elect one of their members to serve as vice-chair. The director of community, trade, and economic development, the director of revenue, the commissioner of employment security, and the secretary of transportation shall serve as nonvoting advisory members of the board.

(3) Management services, including fiscal and contract services, shall be provided by the department to assist the board in implementing this chapter ((~~and the allocation of private activity bonds~~)).

(4) Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the governor shall fill the same for the unexpired term. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW.

(6) A member appointed by the governor may not be absent from more than fifty percent of the regularly scheduled meetings in any one calendar year. Any member who exceeds this absence limitation is deemed to have withdrawn from the office and may be replaced by the governor.

(7) A majority of members currently appointed constitutes a quorum.

Sec. 4. RCW 43.160.050 and 1996 c 51 s 4 are each amended to read as follows:

The board may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(2) Adopt an official seal and alter the seal at its pleasure.

(3) Utilize the services of other governmental agencies.

(4) Accept from any federal agency loans or grants for the planning or financing of any project and enter into an agreement with the agency respecting the loans or grants.

(5) Conduct examinations and investigations and take testimony at public hearings of any matter material for its information that will assist in determinations related to the exercise of the board's lawful powers.

(6) Accept any gifts, grants, or loans of funds, property, or financial or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter.

(7) ((~~Exercise all the powers of a public corporation under chapter 39.84 RCW.~~

~~(8) Invest any funds received in connection with industrial development revenue bond financing not required for immediate use, as the board considers appropriate, subject to any agreements with owners of bonds.~~

~~(9) Arrange for lines of credit for industrial development revenue bonds from and enter into participation agreements with any financial institution.~~

~~(10) Issue industrial development revenue bonds in one or more series for the purpose of defraying the cost of acquiring or improving any industrial development facility or facilities and securing the payment of the bonds as provided in this chapter.~~

~~(11)~~)) Enter into agreements or other transactions with and accept grants and the cooperation of any governmental agency in furtherance of this chapter.

(((~~(12) Sell, purchase, or insure loans to finance the costs of industrial development facilities.~~

~~(13) Service, contract, and pay for the servicing of loans for industrial development facilities.~~

~~(14) Provide financial analysis and technical assistance for industrial development facilities when the board reasonably considers it appropriate.~~

~~(15) Collect, with respect to industrial development revenue bonds, reasonable interest, fees, and charges for making and servicing its lease agreements, loan agreements, mortgage loans, notes, bonds, commitments, and other evidences of indebtedness. Interest, fees, and charges are limited to the amounts required to pay the costs of the board, including operating and administrative expenses and reasonable allowances for losses that may be incurred.~~

~~(16) Procure insurance or guarantees from any party as allowable under law, including a governmental agency, against any loss in connection with its lease agreements, loan agreements, mortgage loans, and other assets or property.~~

~~(17)~~)) (8) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter.

(((~~(18)~~)) (9) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter.

Sec. 5. RCW 43.160.060 and 2007 c 231 s 3 are each amended to read as follows:

The board is authorized to make direct loans to political subdivisions of the state and to federally recognized Indian tribes for the purposes of assisting the political subdivisions and federally recognized Indian tribes in financing the cost of public facilities, including development of land and improvements for public facilities, project-specific environmental, capital facilities, land use, permitting, feasibility, and marketing studies and plans; project design, site planning, and analysis; project debt and revenue impact analysis; as well as the construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision or the federally recognized Indian tribe and the finding by the board that financial circumstances require grant assistance to enable the project to move forward. However, ((~~at least ten~~)) no more than twenty-five percent of all financial assistance ((~~provided~~)) approved by the board in any biennium ((~~shall~~)) may consist of grants to political subdivisions and federally recognized Indian tribes.

Application for funds shall be made in the form and manner as the board may prescribe. In making grants or loans the board shall conform to the following requirements:

(1) The board shall not provide financial assistance:

(a) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(b) For any project that evidence exists would result in a development or expansion that would displace existing jobs in any other community in the state.

(c) ((~~For the acquisition of real property, including buildings and other fixtures which are a part of real property.~~

~~(d)~~)) For a project the primary purpose of which is to facilitate or promote gambling.

(d) For a project located outside the jurisdiction of the applicant political subdivision or federally recognized Indian tribe.

(2) The board shall only provide financial assistance:

(a) For ((~~those projects which would result in specific private developments or expansions (i) in manufacturing, production, food processing, assembly, warehousing, advanced technology, research and development, and industrial distribution; (ii) for processing recyclable materials or for facilities that support recycling, including processes not currently provided in the state, including but not limited to, de-inking facilities, mixed waste paper, plastics, yard waste, and problem-waste processing; (iii) for manufacturing facilities that rely significantly on recyclable materials, including but not limited to waste tires and mixed waste paper; (iv) which support the relocation of businesses from nondistressed urban areas to rural counties or rural natural resources impact areas; or (v) which substantially support the trading of goods or services outside of the state's borders.~~

~~(b) For projects which it finds~~)) a project demonstrating convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made that:

(i) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board and is consistent with the state comprehensive economic development plan developed by the Washington economic development commission pursuant to chapter 43.162 RCW, once the plan is adopted; and

(ii) Will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities((~~.~~

~~(c) When the application includes convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made~~));

(b) For a project that cannot meet the requirement of (a) of this subsection but is a project that:

(i) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board and is consistent with the state comprehensive economic development plan developed by the Washington economic development commission pursuant to chapter 43.162 RCW, once the plan is adopted;

(ii) Is part of a local economic development plan consistent with applicable state planning requirements;

(iii) Can demonstrate project feasibility using standard economic principles; and

(iv) Is located in a rural community as defined by the board, or a rural county;

(c) For site-specific plans, studies, and analyses that address environmental impacts, capital facilities, land use, permitting, feasibility, marketing, project engineering, design, site planning,

and project debt and revenue impacts, as grants not to exceed fifty thousand dollars.

(3) The board shall develop guidelines for local participation and allowable match and activities.

(4) An application must demonstrate local match and local participation, in accordance with guidelines developed by the board.

(5) An application must be approved by the political subdivision and supported by the local associate development organization or local workforce development council or approved by the governing body of the federally recognized Indian tribe.

(6) The board may allow de minimis general system improvements to be funded if they are critically linked to the viability of the project.

(7) An application must demonstrate convincing evidence that the median hourly wage of the private sector jobs created after the project is completed will exceed the countywide median hourly wage.

(8) The board shall prioritize each proposed project according to:

(a) The relative benefits provided to the community by the jobs the project would create, not just the total number of jobs it would create after the project is completed ((~~and according~~)), but also giving consideration to the unemployment rate in the area in which the jobs would be located;

(b) The rate of return of the state's investment, ((~~that includes the~~)) including, but not limited to, the leveraging of private sector investment, anticipated job creation and retention, and expected increases in state and local tax revenues associated with the project; ((~~and~~))

(c) Whether the proposed project offers a health insurance plan for employees that includes an option for dependents of employees;

(d) Whether the public facility investment will increase existing capacity necessary to accommodate projected population and employment growth in a manner that supports infill and redevelopment of existing urban or industrial areas that are served by adequate public facilities. Projects should maximize the use of existing infrastructure and provide for adequate funding of necessary transportation improvements; and

(e) Whether the applicant has developed and adhered to guidelines regarding its permitting process for those applying for development permits consistent with section 1(2), chapter 231, Laws of 2007.

((~~(4)~~)) (9) A responsible official of the political subdivision or the federally recognized Indian tribe shall be present during board deliberations and provide information that the board requests.

Before any financial assistance application is approved, the political subdivision or the federally recognized Indian tribe seeking the assistance must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board.

Sec. 6. RCW 43.160.070 and 1999 c 164 s 104 are each amended to read as follows:

Public facilities financial assistance, when authorized by the board, is subject to the following conditions:

(1) The moneys in the public facilities construction loan revolving account ((~~and the distressed county public facilities construction loan account~~)) shall be used solely to fulfill commitments arising from financial assistance authorized in this chapter ((~~or, during the 1989-91 fiscal biennium, for economic development purposes as appropriated by the legislature~~)). The total outstanding amount which the board shall dispense at any time pursuant to this section shall not exceed the moneys available from the account((~~s~~)). ((~~The total amount of outstanding financial assistance in Pierce, King, and Snohomish counties shall never exceed sixty percent of the total amount of outstanding financial assistance disbursed by the board under this chapter without reference to financial assistance provided under RCW 43.160.220.~~))

(2) On contracts made for public facilities loans the board shall determine the interest rate which loans shall bear. The interest rate shall not exceed ten percent per annum. The board may provide reasonable terms and conditions for repayment for loans, including partial forgiveness of loan principal and interest payments on projects located in rural communities as defined by the board, or rural counties ((~~or rural natural resources impact areas, as the board determines~~)). The loans shall not exceed twenty years in duration.

(3) Repayments of loans made from the public facilities construction loan revolving account under the contracts for public facilities construction loans shall be paid into the public facilities construction loan revolving account. ((~~Repayments of loans made from the distressed county public facilities construction loan account under the contracts for public facilities construction loans shall be paid into the distressed county public facilities construction loan account.~~)) Repayments of loans from moneys from the new appropriation from the public works assistance account for the fiscal biennium ending June 30, 1999, shall be paid into the public works assistance account.

(4) When every feasible effort has been made to provide loans and loans are not possible, the board may provide grants upon finding that unique circumstances exist.

Sec. 7. RCW 43.160.074 and 1985 c 433 s 5 are each amended to read as follows:

(1) An application to the board from a political subdivision may also include a request for improvements to an existing state highway or highways. The application is subject to all of the applicable criteria relative to qualifying types of development set forth in this chapter, as well as procedures and criteria established by the board.

(2) Before board consideration of an application from a political subdivision that includes a request for improvements to an existing state highway or highways, the application shall be forwarded by the board to the department of transportation ((~~commission~~)).

(3) The board may not make its final determination on any application made under subsection (1) of this section before receiving approval, as submitted or amended or disapproval from the department of transportation ((~~commission~~)) as specified in RCW 47.01.280. Notwithstanding its disposition of the remainder of any such application, the board may not approve a request for improvements to an existing state highway or highways without the approval as submitted or amended of the department of transportation ((~~commission~~)) as specified in RCW 47.01.280.

(4) The board shall notify the department of transportation ((~~commission~~)) of its decision regarding any application made under this section.

Sec. 8. RCW 43.160.076 and 1999 c 164 s 105 are each reenacted and amended to read as follows:

(1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for financial assistance in a biennium under this chapter ((~~without reference to financial assistance provided under RCW 43.160.220~~)), the board shall ((~~spend~~)) approve at least seventy-five percent of the first twenty million dollars of funds available and at least fifty percent of any additional funds for financial assistance for projects in rural counties ((~~or rural natural resources impact areas~~)).

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in rural counties ((~~or rural natural resources impact areas~~)) are clearly insufficient to use up the ((~~seventy-five percent~~)) allocations under subsection (1) of this section, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of

the allocation for financial assistance to projects not located in rural counties ((~~or rural natural resources impact areas~~)).

Sec. 9. RCW 43.160.900 and 1993 c 320 s 8 are each amended to read as follows:

(1) The community economic revitalization board shall ((~~report to the appropriate standing committees of the legislature biennially on the implementation of~~)) conduct biennial outcome-based evaluations of the financial assistance provided under this chapter. The ((~~report~~)) evaluations shall include information on the number of applications for community economic revitalization board assistance((~~,~~)); the number and types of projects approved((~~,~~)); the grant or loan amount awarded each project((~~,~~)); the projected number of jobs created or retained by each project((~~,~~)); the actual number and cost of jobs created or retained by each project((~~,~~)); the wages and health benefits associated with the jobs; the amount of state funds and total capital invested in projects; the number and types of businesses assisted by funded projects; the location of funded projects; the transportation infrastructure available for completed projects; the local match and local participation obtained; the number of delinquent loans((~~,~~)); and the number of project terminations. The ((~~report~~)) evaluations may also include additional performance measures and recommendations for programmatic changes. ((~~The first report shall be submitted by December 1, 1994.~~))

(2)(a) By September 1st of each even-numbered year, the board shall forward its draft evaluation to the Washington state economic development commission for review and comment, as required in section 10 of this act. The board shall provide any additional information as may be requested by the commission for the purpose of its review.

(b) Any written comments or recommendations provided by the commission as a result of its review shall be included in the board's completed evaluation. The evaluation must be presented to the governor and appropriate committees of the legislature by December 31st of each even-numbered year. The initial evaluation must be submitted by December 31, 2010.

NEW SECTION. **Sec. 10.** A new section is added to chapter 43.162 RCW to read as follows:

The Washington state economic development commission shall review and provide written comments and recommendations for inclusion in the biennial evaluation conducted by the community economic revitalization board under RCW 43.160.900.

Sec. 11. RCW 43.160.080 and 1998 c 321 s 30 are each amended to read as follows:

There shall be a fund in the state treasury known as the public facilities construction loan revolving account, which shall consist of all moneys collected under this chapter((~~, except moneys of the board collected in connection with the issuance of industrial development revenue bonds and moneys deposited in the distressed county public facilities construction loan account under RCW 43.160.220,~~)) and any moneys appropriated to it by law((~~: PROVIDED, That seventy-five percent of all principal and interest payments on loans made with the proceeds deposited in the account under section 901, chapter 57, Laws of 1983 1st ex. sess. shall be deposited in the general fund as reimbursement for debt service payments on the bonds authorized in RCW 43.83.184~~)). Disbursements from the revolving account shall be on authorization of the board. In order to maintain an effective expenditure and revenue control, the public facilities construction loan revolving account shall be subject in all respects to chapter 43.88 RCW.

NEW SECTION. **Sec. 12.** (1) The legislature recognizes that although many regions of the state are thriving, there are still distressed communities throughout rural and urban Washington where capital investments in community services initiatives could create vibrant local business districts and prosperous neighborhoods.

(2) The legislature also recognizes that nonprofit organizations provide a variety of community services that serve the needs of the citizens of Washington, including many services implemented under contract with state agencies. The legislature also finds that the efficiency and quality of these services may be enhanced by the provision of safe, reliable, and sound facilities, and that, in certain cases, it may be appropriate for the state to assist in the development of these facilities.

(3) The legislature finds that providing these capital investments is critical for the economic health of local distressed communities, helps build strong relationships with the state, and expands life opportunities for underserved, low-income populations.

NEW SECTION. **Sec. 13.** A new section is added to chapter 43.63A RCW to read as follows:

The definitions in this section apply throughout RCW 43.63A.125, this section, and sections 14 and 16 of this act unless the context clearly requires otherwise.

(1) "Department" means the department of community, trade, and economic development.

(2) "Distressed community" means: (a) A county that has an unemployment rate that is twenty percent above the state average for the immediately previous three years; (b) an area within a county that the department determines to be a low-income community, using as guidance the low-income community designations under the community development financial institutions fund's new markets tax credit program of the United States department of the treasury; or (c) a school district in which at least fifty percent of local elementary students receive free and reduced-price meals.

(3) "Nonprofit organization" means an organization that is tax exempt, or not required to apply for an exemption, under section 501(c)(3) or 501(c)(6) of the federal internal revenue code of 1986, as amended.

(4) "Technical assistance" means professional services provided under contract to nonprofit organizations for feasibility studies, planning, and project management related to acquiring, constructing, or rehabilitating nonresidential community services facilities.

NEW SECTION. **Sec. 14.** A new section is added to chapter 43.63A RCW to read as follows:

The building communities fund account is created in the state treasury. The account shall consist of legislative appropriations and gifts, grants, or endowments from other sources as permitted by law. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for capital and technical assistance grants as provided in RCW 43.63A.125.

Sec. 15. RCW 43.63A.125 and 2006 c 371 s 233 are each amended to read as follows:

(1) The department shall establish ((~~a competitive process to solicit proposals for and prioritize projects that assist nonprofit organizations in~~)) the building communities fund program. Under the program, capital and technical assistance grants may be made to nonprofit organizations for acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential ((~~social~~)) community services, including social service centers and multipurpose community centers, including those serving a distinct or ethnic population. Such facilities must be located in a distressed community or serve a substantial number of low-income or disadvantaged persons.

(2) The department shall establish a competitive process to solicit, evaluate, and prioritize applications for the ((~~assistance~~)) building communities fund program as follows:

(a) The department shall conduct a statewide solicitation of project applications from ((~~local governments,~~)) nonprofit organizations((~~, and other entities, as determined by the department~~)).

(b) The department shall evaluate and rank applications in consultation with a citizen advisory committee using objective criteria. ((~~At a minimum,~~)) Applicants must demonstrate that the ((~~requested assistance~~)) proposed project:

(i) Will increase the range, efficiency, or quality of the ((social)) services ((it provides)) provided to citizens;

(ii) Will be located in a distressed community or will serve a substantial number of low-income or disadvantaged persons;

(iii) Will offer a diverse set of activities that meet multiple community service objectives, including but not limited to: Providing social services; expanding employment opportunities for or increasing the employability of community residents; or offering educational or recreational opportunities separate from the public school system or private schools, as long as recreation is not the sole purpose of the facility;

(iv) Reflects a long-term vision for the development of the community, shared by residents, businesses, leaders, and partners;

(v) Requires state funding to accomplish a discrete, usable phase of the project;

(vi) Is ready to proceed and will make timely use of the funds;

(vii) Is sponsored by one or more entities that have the organizational and financial capacity to fulfill the terms of the grant agreement and to maintain the project into the future;

(viii) Fills an unmet need for community services;

(ix) Will achieve its stated objectives; and

(x) Is a community priority as shown through tangible commitments of existing or future assets made to the project by community residents, leaders, businesses, and government partners.

(c) The evaluation and ranking process shall also include an examination of existing assets that applicants may apply to projects. ((Grant assistance under this section shall not exceed twenty-five percent of the total cost of the project.)) The department shall require a nonstate match for grant assistance under this section. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions. Grant assistance may not exceed fifty percent of the total cost of the project.

(((b))) (d) The department may not:

(i) Set a monetary limit to funding requests; or

(ii) Require that state funds be the last to be spent on a project.

(3)(a) The department shall submit a ((prioritized)) ranked list of recommended projects annually to the governor and the legislature in the department's ((biennial)) capital budget requests beginning with the ((2001-2003)) 2009-2011 biennium and thereafter. ((For the 1999-2001 biennium, the department shall conduct a solicitation and ranking process, as described in (a) of this subsection, for projects to be funded by appropriations provided for this program in the 1999-2001 capital budget.)) The list shall include a description of each project, its total cost, the amount of requested state funding, and the amount of recommended state funding((, and documentation of nonstate funds to be used for the project)).

(b) The total amount of recommended state capital funding for projects on ((a biennial)) the annual ranked project list shall be determined by the capital budget beginning with the 2009-2011 biennium and thereafter, and shall not exceed ((ten million dollars)) forty percent of the total amount appropriated for the building communities fund program. In addition, if cash funds have been appropriated, up to three million dollars may be used for technical assistance grants. ((Except for the 1999-2001 biennium,)) The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.

(((c))) (4) The department shall also submit to the legislature an unranked list of the remaining eligible projects for which applications were received. The list must include a description of each project, its total cost, and the amount of state funding requested. The appropriate fiscal committees of the legislature shall use this list to determine, in the legislature's sole discretion, any additional building communities fund projects that may receive funding in the capital budget. The total amount of state capital funding available for all projects on the annual unranked list shall be determined by the capital budget beginning with the 2009-2011 biennium and thereafter, and shall not exceed sixty percent of the total amount appropriated for the building communities fund program.

(5) In addition to the ranked and the unranked lists, the department shall submit to the appropriate fiscal committees of the legislature:

(a) All application materials it received and all working papers it developed during its evaluation process; and

(b) A summary report that describes the solicitation, evaluation and prioritization processes, including but not limited to the number of applications received, the total amount of funding requested, issues encountered, if any, and any recommendations for process improvements for future competitive rounds.

(6) After the legislature has approved a specific list of projects in law, the department shall develop and manage appropriate contracts with the selected applicants; monitor project expenditures and grantee performance; report project and contract information; and exercise due diligence and other contract management responsibilities as required.

(7) In contracts for grants authorized under this section the department shall include provisions which require that capital improvements shall be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities shall be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

NEW SECTION. **Sec. 16.** A new section is added to chapter 43.63A RCW to read as follows:

(1) The department shall develop accountability and reporting standards for grant recipients. At a minimum, the department shall use the criteria listed in RCW 43.63A.125(2)(b) to evaluate the progress of each grant recipient.

(2) Beginning January 1, 2011, the department shall submit an annual report to the appropriate committees of the legislature, including:

(a) A list of projects currently under contract with the department under the building communities fund program; a description of each project, its total cost, the amount of state funding awarded and expended to date, the project status, the number of low-income people served, and the extent to which the project has met the criteria in RCW 43.63A.125(2)(b); and

(b) Recommendations, if any, for policy and programmatic changes to the building communities fund program to better achieve program objectives.

NEW SECTION. **Sec. 17.** The legislature finds that communities surrounding Washington's military bases should reflect our state's appreciation of the armed forces and the value of the sacrifice of military personnel stationed in our region. Declining resources for new infrastructure has increased pressure on cities and counties and, as urban areas have grown near Washington's military bases, these areas have often developed in a pattern that has not supported the needs of the military for housing and services.

The legislature finds that local governments can implement funding options to encourage high-quality redevelopment of the neighborhoods nearest the state's military bases, and infrastructure consistent with the highest public health, safety, and welfare standards in a manner supportive to the military's esprit de corps.

NEW SECTION. **Sec. 18.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The department must conduct a military improvement zone pilot program. The principal purpose of the pilot program

is to encourage the development of high-quality infrastructure and affordable housing in the areas nearest to federal military bases. The pilot program must also determine the effectiveness of the program in increasing the development of high-quality infrastructure and additional affordable housing in improvement zones. The pilot program must be administered by the department.

(2)(a) The department, for purposes of the pilot program authorized by this section, must designate qualifying areas as military improvement zones.

(b) Applications to designate qualifying areas as improvement zones may be submitted by counties or cities. To be eligible for designation as an improvement zone in the pilot program, an area must:

(i) Be a defined geographic area consisting of a neighborhood or contiguous neighborhoods;

(ii) Be within two miles of not more than two federal military bases, which base or bases have over thirty thousand personnel combined, that are wholly contained within either tract 720 or 806 as designated by the United States census bureau; and

(iii) Demonstrate a need for infrastructure improvements that result from population growth, a limited property tax base, a low-income population, a lack of affordable housing, or a designation of a majority of the area as qualified census tracts by the United States department of housing and urban development.

(3) The department must:

(a) Develop operational guidelines and criteria for the pilot program; and

(b) Provide technical assistance to counties and cities participating in the pilot program.

(4) Subject to the availability of amounts appropriated for this specific purpose, the department must provide grants to counties and cities participating in the pilot program authorized under this section. The grants must only be for public infrastructure projects related to affordable housing projects for the improvement zone. Authorized uses include, but are not limited to:

(a) Street and road construction necessary to serve the improvement zone;

(b) Water and sewer system construction; and

(c) Construction of storm water and drainage management systems.

(5)(a) The department must provide a comprehensive pilot program status report to the governor and appropriate committees of the house of representatives and the senate by September 30, 2010.

(b) The department must report its pilot program findings and recommendations to the governor and appropriate committees of the house of representatives and the senate by September 30, 2012.

(6) As used in this section, "affordable housing" has the same meaning as in RCW 43.185A.010.

(7) This section expires June 30, 2013.

NEW SECTION. **Sec. 19.** A new section is added to chapter 82.32 RCW to read as follows:

(1) To be eligible for distributions under section 20 of this act, the county or city must:

(a) Submit an application to the department prior to the initiation of construction of the affordable housing project. The application must be in a form and manner required by the department and must include provisions verifying that:

(i) The project is in a military improvement zone designated by the department under section 18 of this act;

(ii) The expected completion date of the construction of the affordable housing project is consistent with the requirements of the department;

(iii) The proceeds distributed under section 20 of this act will be used for infrastructure that is required for the development to occur;

(iv) At least twenty-five percent of the housing units in the project qualify as affordable housing; and

(v) A development agreement has been made between the developer and the applicable county or city providing for: (A) The number of affordable housing units to be developed; (B) site and building design specifications; and (C) the infrastructure necessary for the project to be constructed. The department must rule on the application within forty-five days of its receipt;

(b) Submit an expenditure plan to the department within one hundred twenty days of the date the application is submitted under (a) of this subsection (1). The plan must specify the intended use of proceeds distributed under section 20 of this act. The department must notify the county or city of any deficiencies in the expenditure plan within ninety days of its submittal.

(2) Proceeds distributed under section 20 of this act may only be used for public infrastructure projects related to a qualifying affordable housing project. Authorized uses include, but are not limited to:

(a) Street and road construction necessary to serve the improvement zone;

(b) Water and sewer system construction; and

(c) Construction of storm water and drainage management systems.

(3) As used in this section, "affordable housing" has the same meaning as in RCW 43.185A.010.

(4) As used in this section, "department" means the department of community, trade, and economic development.

(5) The department may not transfer money to the account established in section 20 of this act after July 1, 2013.

NEW SECTION. **Sec. 20.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The military improvement zone account is created in the custody of the state treasurer. Receipts from the proceeds of bond sales, tax revenues, budget transfers, federal appropriations, gifts, or any other lawful source, specifically designated for purposes of sections 18 and 19 of this act, must be deposited into the account. Expenditures from the account may be used by a county or city only for public infrastructure projects authorized under sections 19(2) and 18(4) of this act. 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.

(2) The department of revenue must distribute proceeds under this section annually at no cost to the receiving county or city. Proceeds must be distributed to a city or county by July 1st of each year, beginning in the state fiscal year following the fiscal year in which initiation of construction of the affordable housing project begins.

(3) The department of revenue may not distribute proceeds under this section for construction occurring after the date of completion specified in section 19(1)(a)(ii) of this act. However, the department of revenue, in consultation with the department, may extend the date of completion for good cause shown.

NEW SECTION. **Sec. 21.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The department must conduct an examination of land use tools and funding options that local governments can implement to encourage:

(a) High-quality development of the neighborhoods nearest the state's military bases;

(b) Affordable housing for military personnel; and

(c) Infrastructure for this housing that is consistent with the highest public health, safety, and welfare standards.

(2) As used in this section, "affordable housing" has the same meaning as in RCW 43.185A.010.

(3) The department must report its findings and recommendations to the governor and the appropriate

BARBARA BAKER, Chief Clerk

committees of the house of representatives and the senate by January 30, 2009.

NEW SECTION. **Sec. 22.** The following acts or parts of acts are each repealed:

(1) RCW 43.160.100 (Status of board) and 1984 c 257 s 3;

(2) RCW 43.160.120 (Commingling of funds prohibited) and 1984 c 257 s 5;

(3) RCW 43.160.130 (Personal liability) and 1984 c 257 s 6;

(4) RCW 43.160.140 (Accounts) and 1987 c 422 s 8 & 1984 c 257 s 7;

(5) RCW 43.160.150 (Faith and credit not pledged) and 1984 c 257 s 8;

(6) RCW 43.160.160 (Security) and 1984 c 257 s 9;

(7) RCW 43.160.170 (Special reserve account) and 1984 c 257 s 10;

(8) RCW 43.160.200 (Economic development account--Eligibility for assistance) and 2004 c 252 s 4, 1999 c 164 s 107, 1996 c 51 s 9, & 1995 c 226 s 16;

(9) RCW 43.160.210 (Distressed counties--Twenty percent of financial assistance) and 1998 c 321 s 31 & 1998 c 55 s 5;

(10) RCW 43.160.220 (Distressed county public facilities construction loan account) and 1998 c 321 s 9;

(11) RCW 43.160.230 (Job development fund program) and 2007 c 231 s 4 & 2005 c 425 s 2;

(12) RCW 43.160.240 (Job development fund program--Maximum grants) and 2005 c 425 s 3; and

(13) RCW 44.28.801 (State public infrastructure programs and funds--Inventory--Report) and 2006 c 371 s 229 & 2005 c 425 s 5.

NEW SECTION. **Sec. 23.** Sections 1, 2, 4 through 11, and 22 of this act take effect July 1, 2009.

NEW SECTION. **Sec. 24.** Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 6855 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator Kilmer that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 6855 and ask the House to recede therefrom.

The motion by Senator Kilmer carried and the Senate refused to concur in the House amendment(s) to Second Substitute Senate Bill No. 6855 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5010, with the following amendment: 5010-S.E AMH APPG H5913.1

On page 4, after line 32, insert the following:

"NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

MOTION

Senator Honeyford moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5010.

Senator Honeyford spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Honeyford that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5010.

The motion by Senator Honeyford carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5010 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5010, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5010, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

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

Absent: Senator Brown - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 5010, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6277, with the following amendment: 6277-S AMH TR H5939.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 47.04 RCW to read as follows:

(1) Any local transit agency that has received state funding for a park and ride lot shall make reasonable accommodation for use of that lot by auto transportation companies regulated under chapter 81.68 RCW and private, nonprofit transportation providers regulated under chapter 81.66 RCW, that intend to provide or already provide regularly scheduled service at that lot. The accommodation must be in the form of an agreement between the applicable local transit agency and private transit provider regulated under chapter 81.68 or 81.66 RCW. The transit agency may require that the agreement include provisions to recover costs and fair market value for the use of the lot and its related facilities and to provide adequate insurance and indemnification of the transit agency, and other reasonable provisions to ensure that the private transit provider's use does not unduly burden the transit agency. No accommodation is

required, and any agreement may be terminated, if the transit agency determines that the use or capacity of the lot for public transportation purposes is or becomes incompatible with the demands of the private transit provider.

(2) A local transit agency described under subsection (1) of this section may enter into a cooperative agreement with a taxicab company regulated under chapter 81.72 RCW in order to accommodate the taxicab company at the agency's park and ride lot, provided the taxicab company must agree to provide service with reasonable availability, subject to schedule coordination provisions as agreed to by the parties."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6277 and ask the House to recede therefrom.

Senator Haugen spoke in favor of the motion.

MOTION

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

The President declared the question before the Senate to be motion by Senator Haugen that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6277 and ask the House to recede therefrom.

The motion by Senator Haugen carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6277 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5254, with the following amendment: 5254-S AMH H5863.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that a skilled work force is essential for employers and job seekers to compete in today's global economy. The engines of economic progress are fueled by education and training. The legislature further finds that industry skill panels are a critical and proven form of public-private partnership that harness the expertise of leaders in business, labor, and education to identify work force development strategies for industries that drive Washington's regional economies. Industry skill panels foster innovation and enable industry leaders and public partners to be proactive, addressing changing needs for businesses quickly and strategically. Industry skill panels leverage small state investments with private sector investments to ensure that public resources are better aligned with industry needs.

(2) The legislature further finds that industry skill panels support other valuable initiatives such as the department of community, trade, and economic development's cluster-based economic development grants; the community and technical college centers of excellence, high-demand funds, and the job skills program; and the employment security department's incumbent worker training funds. Industry skill panels provide a framework for coordinating these and other investments in line with economic and work force development strategies identified by industry leaders. It is the intent of the legislature to support the development and maintenance of industry skill panels in key sectors of the economy as an efficient and effective way to support regional economic development.

Sec. 2. RCW 28C.18.010 and 1996 c 99 s 2 are each amended to read as follows:

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

(1) "Board" means the work force training and education coordinating board.

(2) "Director" means the director of the work force training and education coordinating board.

(3) "Training system" means programs and courses of secondary vocational education, technical college programs and courses, community college vocational programs and courses, private career school and college programs and courses, employer-sponsored training, adult basic education programs and courses, programs and courses funded by the ((~~job training partnership~~)) federal workforce investment act, programs and courses funded by the federal vocational act, programs and courses funded under the federal adult education act, publicly funded programs and courses for adult literacy education, and apprenticeships, and programs and courses offered by private and public nonprofit organizations that are representative of communities or significant segments of communities and provide job training or adult literacy services.

(4) "Work force skills" means skills developed through applied learning that strengthen and reinforce an individual's academic knowledge, critical thinking, problem solving, and work ethic and, thereby, develop the employability, occupational skills, and management of home and work responsibilities necessary for economic independence.

(5) "Vocational education" means organized educational programs offering a sequence of courses which are directly related to the preparation or retraining of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning which contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence as a productive and contributing member of society. Such term also includes applied technology education.

(6) "Adult basic education" means instruction designed to achieve mastery of skills in reading, writing, oral communication, and computation at a level sufficient to allow the individual to function effectively as a parent, worker, and citizen in the United States, commensurate with that individual's actual ability level, and includes English as a second language and preparation and testing service for the general education development exam.

(7) "Industry skill panel" means a regional partnership of business, labor, and education leaders that identifies skill gaps in a key economic cluster and enables the industry and public partners to respond to and be proactive in addressing workforce skill needs.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28C.18 RCW to read as follows:

(1) Subject to funding provided for the purposes of this section, the board, in consultation with the state board for community and technical colleges, the department of community, trade, and economic development, and the employment security department, shall allocate grants on a competitive basis to establish and support industry skill panels.

(2) Eligible applicants for the grants allocated under this section include, but are not limited to, work force development councils, community and technical colleges, economic development councils, private career schools, chambers of commerce, trade associations, and apprenticeship councils.

(3) Entities applying for a grant under this section shall provide an employer match of at least twenty-five percent to be eligible. The local match may include in-kind services.

(4) It shall be the role of industry skill panels funded under this chapter to enable businesses in the industry to address work force skill needs. Industry skill panels shall identify work force strategies to meet the needs in order to benefit employers and workers across the industry. Examples of strategies include, but are not limited to: Developing career guidance materials; producing or updating skill standards and curricula; designing training programs and courses; developing technical assessments and certifications; arranging employer mentoring, tutoring, and internships; identifying private sector assistance in providing faculty or equipment to training providers; and organizing industry conferences disseminating best practices. The products and services of particular skill panels shall depend upon the needs of the industry.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28C.18 RCW to read as follows:

The board shall establish industry skill panel standards that identify the expectations for industry skill panel products and services. The board shall establish the standards in consultation with labor, the state board for community and technical colleges, the employment security department, the institute of workforce development and economic sustainability, and the department of community, trade, and economic development. Continued funding of particular industry skill panels shall be based on meeting the standards established by the board under this section. Beginning December 1, 2008, the board shall report annually to the governor and the economic development and higher education committees of the legislature on the results of the industry skill panels funded under this chapter in meeting the standards.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5254.

Senator Kilmer spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5254.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5254 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5254, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5254, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brown and Pridemore - 2

SUBSTITUTE SENATE BILL NO. 5254, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 5596, with the following amendment: 5596-S2 AMH ENGR H5952.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

(1)(a) Except as provided in (b) of this subsection, a health carrier may not develop and use a payment methodology that would result in a payment to a chiropractor under a physical medicine and rehabilitation payment or billing code or an evaluation and management payment or billing code in an amount less than a payment to a different provider licensed under Title 18 RCW who is being paid under the same physical medicine and rehabilitation payment or billing code or the same evaluation and management payment or billing code. For payment methodologies that are developed and used on or after January 1, 2009, it is presumed that payment or billing codes that apply only to health care services provided by chiropractors are not in compliance with this requirement unless the carrier shows to the commissioner's satisfaction that the payment or billing codes are used only to achieve the purposes permitted under (b) of this subsection.

(b) This section does not affect a health carrier's:

(i) Implementation of a health care quality improvement program to promote cost-effective and clinically efficacious health care services, including but not limited to pay-for-performance payment methodologies and other programs fairly applied to all health care providers licensed under Title 18 RCW that are designed to promote evidence-based and research-based practices; or

(ii) Health care provider contracting to comply with the network adequacy standards of RCW 48.43.515 and the rules adopted by the commissioner establishing network adequacy standards.

(c) This section does not, and may not be construed to:

(i) Require the payment of provider billings that do not meet the definition of a clean claim as set forth in rules adopted by the commissioner;

(ii) Require any health plan to include coverage of any condition; or

(iii) Expand the scope of practice for any health care provider.

(2) This section applies only to payment methodologies developed or used on or after January 1, 2009.

Sec. 2. RCW 41.05.017 and 2007 c 502 s 2 are each amended to read as follows:

Each health plan that provides medical insurance offered under this chapter, including plans created by insuring entities, plans not subject to the provisions of Title 48 RCW, and plans created under RCW 41.05.140, are subject to the provisions of RCW 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 43.70.235, 48.43.545, 48.43.550, 70.02.110, 70.02.900, section 1 of this act, and 48.43.083.

NEW SECTION. **Sec. 3.** A new section is added to chapter 48.43 RCW to read as follows:

(1) Beginning January 1, 2009, the commissioner shall require carriers to report such data as the commissioner may determine are necessary for an evaluation of the impact of section 1 of this act on the utilization and cost of health care services associated with physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes, and on the total cost of episodes of care for treatment associated with the use of these payment or billing codes.

(2) The data may include, but need not be limited to, the following:

(a) Data on the utilization of physical medicine and rehabilitation services and evaluation and management services associated with payment or billing codes for those services;

(b) Data related to changes in the distribution or mix of health care providers providing services under physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes;

(c) Data related to trends in carrier expenditures for services associated with physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes; and

(d) Data related to trends in carrier expenditures for the total cost of health plan enrollee care for treatment of the presenting health problems associated with the use of physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes.

(3) The commissioner may adopt rules necessary to implement this section, including but not limited to the format and timing of data reporting and defining the years for which data must be provided.

(4)(a) Data, information, and documents provided by the carrier pursuant to this section are exempt from public inspection and copying under chapter 42.56 RCW to the extent that they contain actuarial formulas, statistics, and assumptions submitted in support of setting rates for the carrier's health plans.

(b) The commissioner is authorized to use documents, materials, or other information obtained pursuant to this section in the furtherance of any regulatory activities, reports to the legislature, or legal actions brought as a part of the commissioner's official duties.

(5) The commissioner shall submit the evaluation required in subsection (1) of this section to the appropriate committees of the senate and house of representatives by January 1, 2012.

NEW SECTION. **Sec. 4.** This act expires June 30, 2013."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Franklin moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5596.

Senator Franklin spoke in favor of the motion.

MOTION

On motion of Senator Eide, further consideration of Second Substitute Senate Bill No. 5596 was deferred and the bill held its place on the concurrence calendar.

MESSAGE FROM THE HOUSE

March 7, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 5751, with the following amendment: 5751.E AMH CL H5815.2

On page 2, line 16, after "and" strike "obviously" and insert "apparently"

On page 2, after line 20, insert the following:

"(h) The board may prohibit tasting at a pilot project location that is within the boundaries of an alcohol impact area recognized by resolution of the board if the board finds that the tasting activities at the location are having an adverse effect on the reduction of chronic public inebriation in the area."

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

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5751.

Senator Kohl-Welles spoke in favor of the motion.

Senator Roach spoke against the motion.

MOTION

On motion of Senator Regala, Senator Prentice was excused.

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 Senate Bill No. 5751.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5751 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5751, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5751, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 17; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Pflug, Regala, Rockefeller, Schoesler, Stevens, Tom, Weinstein and Zarelli - 29

Voting nay: Senators Benton, Fairley, Fraser, Hargrove, Haugen, Kastama, Kauffman, Marr, McCaslin, Morton, Parlette, Rasmussen, Roach, Sheldon, Shin, Spanel and Swecker - 17

Excused: Senators Brown, Prentice and Pridemore - 3

ENGROSSED SENATE BILL NO. 5751, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5878, with the following amendment: 5878 AMH PSEP H5681.2.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature enacts sections 3 and 4 of this act to expressly reject the interpretation of *State v. Leyda,* 157 Wn.2d 335, 138 P.3d 610 (2006), which holds that the unit of prosecution in identity theft is any one act of either knowingly obtaining, possessing, using, or transferring a single piece of another's identification or financial information, including all subsequent proscribed conduct with that single piece of identification or financial information, when the acts are taken with the requisite intent. The legislature finds that proportionality of punishment requires the need for charging and punishing for obtaining, using, possessing, or transferring any individual person's identification or financial information, with the requisite intent. The legislature specifically intends that each individual who obtains, possesses, uses, or transfers any individual person's identification or financial information, with the requisite intent, be classified separately and punished separately as provided in chapter 9.94A RCW.

NEW SECTION. **Sec. 2.** A new section is added to chapter 9.35 RCW to read as follows:

(1) A person who has learned or reasonably suspects that his or her financial information or means of identification has been unlawfully obtained, used by, or disclosed to another, as described in this chapter, may file an incident report with a law enforcement agency, by contacting the local law enforcement agency that has jurisdiction over his or her actual residence, place of business, or place where the crime occurred. The law enforcement agency shall create a police incident report of the matter and provide the complainant with a copy of that report, and may refer the incident report to another law enforcement agency.

(2) Nothing in this section shall be construed to require a law enforcement agency to investigate reports claiming identity theft. An incident report filed under this section is not required to be counted as an open case for purposes of compiling open case statistics.

Sec. 3. RCW 9.35.001 and 1999 c 368 s 1 are each amended to read as follows:

The legislature finds that means of identification and financial information ((~~is~~)) are personal and sensitive information such that if unlawfully obtained, possessed, used, or transferred by others may ((~~do~~)) result in significant harm to a person's privacy, financial security, and other interests. The legislature finds that unscrupulous persons find ever more clever ways, including identity theft, to improperly obtain ((~~and~~)), possess, use, and transfer another person's means of identification or financial information. The legislature intends to penalize ((~~unscrupulous people~~)) for each unlawful act of improperly obtaining, possessing, using, or transferring means of identification or financial information of an individual person. The unit of prosecution for identity theft by use of a means of identification or financial information is each individual unlawful use of any one person's means of identification or financial information. Unlawfully obtaining, possessing, or transferring each means of identification or financial information of any individual person, with the requisite intent, is a separate unit of prosecution for each victim and for each act of obtaining, possessing, or transferring of the individual person's means of identification or financial information.

Sec. 4. RCW 9.35.020 and 2004 c 273 s 2 are each amended to read as follows:

(1) No person may knowingly obtain, possess, use, or transfer a means of identification or financial information of another person, living or dead, with the intent to commit, or to aid or abet, any crime.

(2) Violation of this section when the accused or an accomplice ((~~uses the victim's means of identification or financial information~~)) violates subsection (1) of this section and obtains ((~~an aggregate total of~~)) credit, money, goods, services, or anything else of value in excess of one thousand five hundred dollars in value shall constitute identity theft in the first degree. Identity theft in the first degree is a class B felony punishable according to chapter 9A.20 RCW.

(3) ((~~Violation of this section when the accused or an accomplice uses the victim's means of identification or financial information and obtains an aggregate total of credit, money, goods, services, or anything else of value that is less than one thousand five hundred dollars in value, or when no credit, money, goods, services, or anything of value is obtained shall constitute identity theft in the second degree.~~)) A person is guilty of identity theft in the second degree when he or she violates subsection (1) of this section under circumstances not amounting to identity theft in the first degree. Identity theft in the second degree is a class C felony punishable according to chapter 9A.20 RCW.

(4) Each crime prosecuted under this section shall be punished separately under chapter 9.94A RCW, unless it is the same criminal conduct as any other crime, under RCW 9.94A.589.

(5) Whenever any series of transactions involving a single person's means of identification or financial information which constitute identity theft would, when considered separately, constitute identity theft in the second degree because of value, and the series of transactions are a part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all of the transactions shall be the value considered in determining the degree of identity theft involved.

(6) Every person who, in the commission of identity theft, shall commit any other crime may be punished therefor as well as for the identity theft, and may be prosecuted for each crime separately.

(7) A person who violates this section is liable for civil damages of one thousand dollars or actual damages, whichever is greater, including costs to repair the victim's credit record, and reasonable attorneys' fees as determined by the court.

(((~~5~~))) (8) In a proceeding under this section, the crime will be considered to have been committed in any locality where the person whose means of identification or financial information was appropriated resides, or in which any part of the offense took place, regardless of whether the defendant was ever actually in that locality.

(((~~6~~))) (9) The provisions of this section do not apply to any person who obtains another person's driver's license or other form of identification for the sole purpose of misrepresenting his or her age.

(((~~7~~))) (10) In a proceeding under this section in which a person's means of identification or financial information was used without that person's authorization, and when there has been a conviction, the sentencing court may issue such orders as are necessary to correct a public record that contains false information resulting from a violation of this section."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Senate Bill No. 5878.

Senator Kline spoke in favor of the 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 Senate Bill No. 5878.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5878 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5878, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5878, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brown, Prentice and Pridemore - 3

SENATE BILL NO. 5878, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6195, with the following amendment(s): 6195-S AMH APPG H5911.1 & 6195-S AMH APPG H5912.1

On page 7, after line 17, insert the following:

"NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

On page 7, after line 17, insert the following:

"NEW SECTION. **Sec. 5.** This act takes effect July 1, 2009."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6195.

Senator Haugen spoke in favor of the 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. 6195.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6195 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6195, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6195, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brown, Prentice and Pridemore - 3

SUBSTITUTE SENATE BILL NO. 6195, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6206, with the following amendment: 6206-S2 AMH ENGR H5899.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.13.640 and 2004 c 36 s 1 are each amended to read as follows:

(1) The department of social and health services shall conduct a child fatality review in the event of an unexpected death of a minor in the state who is in the care of or receiving services described in chapter 74.13 RCW from the department or who has been in the care of or received services described in chapter 74.13 RCW from the department within one year preceding the minor's death.

(2) Upon conclusion of a child fatality review required pursuant to subsection (1) of this section, the department shall within one hundred eighty days following the fatality issue a report on the results of the review ((~~to the appropriate committees of the legislature and shall make copies of the report available to the public upon request~~)), unless an extension has been granted by the governor. Reports shall be distributed to the appropriate committees of the legislature, and the department shall create a public web site where all child fatality review reports required under this section shall be posted and maintained.

(3) The department shall develop and implement procedures to carry out the requirements of subsections (1) and (2) of this section.

(4) In the event a child fatality is the result of apparent abuse or neglect by the child's parent or caregiver, the department shall ensure that the fatality review team is comprised of individuals who had no previous involvement in the case and whose professional expertise is pertinent to the dynamics of the case.

(5) In the event of a near-fatality of a child who is in the care of or receiving services described in this chapter from the department or who has been in the care of or received services described in this chapter from the department within one year preceding the near-fatality, the department shall promptly notify the office of the family and children's ombudsman.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.06A RCW to read as follows:

The office of the family and children's ombudsman shall issue an annual report to the legislature on the status of the implementation of child fatality review recommendations.

Sec. 3. RCW 43.06A.100 and 1999 c 390 s 5 are each amended to read as follows:

The department of social and health services shall:

(1) Allow the ombudsman or the ombudsman's designee to communicate privately with any child in the custody of the department for the purposes of carrying out its duties under this chapter;

(2) Permit the ombudsman or the ombudsman's designee physical access to state institutions serving children, and state licensed facilities or residences for the purpose of carrying out its duties under this chapter;

(3) Upon the ombudsman's request, grant the ombudsman or the ombudsman's designee the right to access, inspect, and copy all relevant information, records, or documents in the possession or control of the department that the ombudsman considers necessary in an investigation; and

(4) Grant the office of the family and children's ombudsman unrestricted on-line access to the case and management information system (CAMIS) or any successor information system for the purpose of carrying out its duties under this chapter.

Sec. 4. RCW 26.44.030 and 2007 c 387 s 3 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington

Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving reports of alleged abuse or neglect, the department or law enforcement agency may interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation.

(11) Upon receiving a report of alleged child abuse and neglect, the department or investigating law enforcement agency shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(12) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(13) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombudsman of the contents of the report. The department shall also notify the ombudsman of the disposition of the report.

(14) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

((~~(14)~~)) (15) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

((~~(15)~~)) (16) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

((~~(16)~~)) (17) The department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which: (a) The department believes there is a serious threat of substantial harm to the child; (b) the report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or (c) the department has, after investigation, a report of abuse or neglect that has been founded with regard to a member of the household within three years of receipt of the referral.

(18) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

Sec. 5. RCW 26.44.030 and 2007 c 387 s 3 and 2007 c 220 s 2 are each reenacted and amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in

the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(11)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(12) In conducting an investigation of alleged abuse or neglect, the department or law enforcement agency:

(a) May interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the

department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(b) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(13) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombudsman of the contents of the report. The department shall also notify the ombudsman of the disposition of the report.

(14) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

((~~(14)~~)) (15) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

((~~(15)~~)) (16) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

((~~(16)~~)) (17) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(18) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.06A RCW to read as follows:

The ombudsman shall analyze a random sampling of referrals made by mandated reporters during 2006 and 2007 and report to the appropriate committees of the legislature on the following: The number and types of referrals from mandated reporters; the disposition of the referrals by category of mandated reporters; how many referrals resulted in the filing of dependency actions; any patterns established by the department in how it dealt with such referrals; whether the history of fatalities in 2006 and 2007 showed referrals by mandated reporters; and any other information the ombudsman deems relevant. The ombudsman may contract for all or a portion of the tasks essential to completing the analysis and report required under this section. The report is due no later than June 30, 2009.

NEW SECTION. **Sec. 7.** Section 4 of this act expires October 1, 2008.

NEW SECTION. **Sec. 8.** Section 5 of this act takes effect October 1, 2008.

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

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Zarelli moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6206.

Senator Zarelli spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Zarelli that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6206.

The motion by Senator Zarelli carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6206 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6206, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6206, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Fraser - 1

Excused: Senator Brown - 1

SECOND SUBSTITUTE SENATE BILL NO. 6206, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 6357, with the following amendment: 6357.E AMH LANT ZARO 018.

On page 1, line 4, after **"Sec. 1."** insert "This act shall be known as the Rebecca Jane Griego act."

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6357.

Senator Kohl-Welles spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senator Fraser was excused.

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 Senate Bill No. 6357.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 6357 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6357, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6357, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator Kastama - 1

Excused: Senators Brown and Fraser - 2

ENGROSSED SENATE BILL NO. 6357, 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.

SIGNED BY THE PRESIDENT

The President signed:
ENGROSSED HOUSE BILL NO. 1283,
HOUSE BILL NO. 1391,
HOUSE BILL NO. 1493,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1623
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1865,
HOUSE BILL NO. 2137,
HOUSE BILL NO. 2283,
SUBSTITUTE HOUSE BILL NO. 2431,
HOUSE BILL NO. 2448,
ENGROSSED HOUSE BILL NO. 2459,
SUBSTITUTE HOUSE BILL NO. 2475,
HOUSE BILL NO. 2499,
HOUSE BILL NO. 2540,
SUBSTITUTE HOUSE BILL NO. 2560,
HOUSE BILL NO. 2564,
SUBSTITUTE HOUSE BILL NO. 2575,
SUBSTITUTE HOUSE BILL NO. 2580,
HOUSE BILL NO. 2594,
HOUSE BILL NO. 2650,
SUBSTITUTE HOUSE BILL NO. 2661,
HOUSE BILL NO. 2699,
HOUSE BILL NO. 2700,
SUBSTITUTE HOUSE BILL NO. 2727,
HOUSE BILL NO. 2762,
SUBSTITUTE HOUSE BILL NO. 2770,
SUBSTITUTE HOUSE BILL NO. 2823,
HOUSE BILL NO. 2825,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2847,
SECOND SUBSTITUTE HOUSE BILL NO. 2870,
SUBSTITUTE HOUSE BILL NO. 2879,
SUBSTITUTE HOUSE BILL NO. 2885,
SUBSTITUTE HOUSE BILL NO. 2893,
SUBSTITUTE HOUSE BILL NO. 2902,
SECOND SUBSTITUTE HOUSE BILL NO. 2903,
HOUSE BILL NO. 2949,
HOUSE BILL NO. 2955,
SUBSTITUTE HOUSE BILL NO. 2959,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2996,
HOUSE BILL NO. 2999,
SUBSTITUTE HOUSE BILL NO. 3002,
HOUSE BILL NO. 3011
HOUSE BILL NO. 3019,
HOUSE BILL NO. 3024,
SUBSTITUTE HOUSE BILL NO. 3071,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 3122,
SUBSTITUTE HOUSE BILL NO. 3126,
HOUSE BILL NO. 3200,
SUBSTITUTE HOUSE BILL NO. 3224,

MESSAGE FROM THE HOUSE

March 7, 2008

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6313, with the following amendment: 6313 AMH ENGR H5862.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** This act may be known and cited as the disability history month act.

NEW SECTION. **Sec. 2.** The legislature finds that annually recognizing disability history throughout our entire public educational system, from kindergarten through grade twelve and at our colleges and universities, during the month of October will help to increase awareness and understanding of the contributions that people with disabilities in our state, nation, and the world have made to our society. The legislature further finds that recognizing disability history will increase respect and promote acceptance and inclusion of people with disabilities. The legislature further finds that recognizing disability history will inspire students with disabilities to feel a greater sense of pride, reduce harassment and bullying, and help keep students with disabilities in school.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.230 RCW to read as follows:

Annually, during the month of October, each public school shall conduct or promote educational activities that provide instruction, awareness, and understanding of disability history and people with disabilities. The activities may include, but not be limited to, school assemblies or guest speaker presentations.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.10 RCW to read as follows:

Annually, during the month of October, each of the public institutions of higher education shall conduct or promote educational activities that provide instruction, awareness, and understanding of disability history and people with disabilities. The activities may include, but not be limited to, guest speaker presentations."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Senate Bill No. 6313.

Senator McAuliffe spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Senate Bill No. 6313.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6313 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6313, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6313, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

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

Excused: Senators Brown and Fraser - 2

Absent: Senators Hargrove and Tom - 2

SENATE BILL NO. 6313, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6527, with the following amendment: 6527-S AMH PSEP H5780.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.12.101 and 2007 c 96 s 1 are each amended to read as follows:

A transfer of ownership in a motor vehicle is perfected by compliance with the requirements of this section.

(1)(a) If an owner transfers his or her interest in a vehicle, other than by the creation, deletion, or change of a security interest, the owner shall, at the time of the delivery of the vehicle, execute an assignment to the transferee and provide an odometer disclosure statement under RCW 46.12.124 on the certificate of ownership or as the department otherwise prescribes, and cause the certificate and assignment to be transmitted to the transferee. The owner shall notify the department or its agents or subagents, in writing, on the appropriate form, of the date of the sale or transfer, the name and address of the owner and of the transferee, the transferee's driver's license number if available, and such description of the vehicle, including the vehicle identification number, as may be required in the appropriate form provided or approved for that purpose by the department. The report of sale will be deemed properly filed if all information required in this section is provided on the form and includes a department-authorized notation that the document was received by the department, its agents, or subagents on or before the fifth day after the sale of the vehicle, excluding Saturdays, Sundays, and state and federal holidays. Agents and subagents shall immediately electronically transmit the seller's report of sale to the department. Reports of sale processed and recorded by the department's agents or subagents may be subject to fees as specified in RCW 46.01.140 (4)(a) or (5)(b). By January 1, 2003, the department shall create a system enabling the seller of a vehicle to transmit the report of sale electronically. The system created by the department must immediately indicate on the department's vehicle record that a seller's report of sale has been filed.

(b) By January 1, 2008, the department shall provide instructions on release of interest forms that allow the seller of a vehicle to release his or her interest in a vehicle at the same time a financial institution, as defined in RCW 30.22.040, releases ((~~their~~)) its lien on the vehicle.

(2) The requirements of subsection (1) of this section to provide an odometer disclosure statement apply to the transfer of vehicles held for lease when transferred to a lessee and then to the lessor at the end of the leasehold and to vehicles held in a fleet when transferred to a purchaser.

(3) Except as provided in RCW 46.70.122 the transferee shall within fifteen days after delivery to the transferee of the vehicle, execute the application for a new certificate of ownership in the same space provided therefor on the certificate or as the department prescribes, and cause the certificates and application to be transmitted to the department accompanied by a fee of five dollars in addition to any other fees required.

(4) Upon request of the owner or transferee, a secured party in possession of the certificate of ownership shall, unless the transfer was a breach of its security agreement, either deliver the certificate to the transferee for transmission to the department or, when the secured party receives the owner's assignment from the transferee, it shall transmit the transferee's application for a new certificate, the existing certificate, and the required fee to the department. Compliance with this section does not affect the rights of the secured party.

(5) If a security interest is reserved or created at the time of the transfer, the certificate of ownership shall be retained by or delivered to the person who becomes the secured party, and the parties shall comply with the provisions of RCW 46.12.170.

(6) If the purchaser or transferee fails or neglects to make application to transfer the certificate of ownership and license registration within fifteen days after the date of delivery of the vehicle, he or she shall on making application for transfer be assessed a twenty-five dollar penalty on the sixteenth day and two dollars additional for each day thereafter, but not to exceed one hundred dollars. The director may by rule establish conditions under which the penalty will not be assessed when an application for transfer is delayed for reasons beyond the control of the purchaser. Conditions for not assessing the penalty may be established for but not limited to delays caused by:

(a) The department requesting additional supporting documents;

(b) Extended hospitalization or illness of the purchaser;

(c) Failure of a legal owner to release his or her interest;

(d) Failure, negligence, or nonperformance of the department, auditor, or subagent;

(e) The transferee had no knowledge of the filing of the vehicle report of sale and signs an affidavit to the fact.

Failure or neglect to make application to transfer the certificate of ownership and license registration within forty-five days after the date of delivery of the vehicle is a misdemeanor and a continuing offense for each day during which the purchaser or transferee does not make application to transfer the certificate of ownership and license registration. Despite the continuing nature of this offense, it shall be considered a single offense, regardless of the number of days that have elapsed following the forty-five day time period.

(7) Upon receipt of an application for reissue or replacement of a certificate of ownership and transfer of license registration, accompanied by the endorsed certificate of ownership or other documentary evidence as is deemed necessary, the department shall, if the application is in order and if all provisions relating to the certificate of ownership and license registration have been complied with, issue new certificates of title and license registration as in the case of an original issue and shall transmit the fees together with an itemized detailed report to the state treasurer.

(8) Once each quarter the department shall report to the department of revenue a list of those vehicles for which a seller's report has been received but no transfer of title has taken place."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6527.

Senator Kastama spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senator Jacobsen was excused.

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6527.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6527 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6527, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6527, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 0; Excused, 3.

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

Voting nay: Senators Carrell, Holmquist and McCaslin - 3

Excused: Senators Brown, Fraser and Jacobsen - 3

SUBSTITUTE SENATE BILL NO. 6527, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6333, with the following amendment: 6333-S.E AMH ENGR H5946.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that:

(1) In the past two decades, Washington state has implemented legislative initiatives to improve access to quality, affordable health care in the state. These initiatives, which placed Washington in the forefront of states addressing their residents' health care needs, include:

(a) The basic health plan providing affordable coverage to over one hundred thousand individuals and families below two hundred percent of the federal poverty level;

(b) The "cover all children" initiative, expanding publicly funded coverage to children in families under three hundred percent of the federal poverty level and promising to cover all children by 2010;

(c) The blue ribbon commission on health care costs and access resulting in the passage of Engrossed Second Substitute Senate Bill No. 5930, that, among other actions, directed state agencies to integrate prevention, chronic care management, and the medical home concept into state purchased health care programs;

(d) The movement toward evidence-based health care purchasing for state health care programs, including the prescription drug program and its preferred drug list, the health technology assessment program, the use of medical evidence to evaluate medical necessity under state medical assistance programs and the direction provided in Engrossed Second Substitute Senate Bill No. 5930 relating to aligning payment with evidence-based care; and

(e) The development of patient safety initiatives, including health care facility reporting of adverse medical events and hospital-acquired infection reporting.

(2) Despite these initiatives, the cost of health care has continued to increase at a disproportionately high rate.

(3) Affordability is key to accessing health care, as evidenced by the fact that more than half of the uninsured people in Washington state are in low-income families, and low-wage workers are far more likely to be uninsured than those with higher incomes. These increasing costs are placing quality care beyond the reach of a growing number of Washington citizens and contributing to health care expenditures that strain the resources of individuals, businesses, and public programs.

(4) Efforts by public and private purchasers to control expenditures, and the stress these efforts place on the stability of the health care workforce and viability of health care facilities, threaten to reduce access to quality care for all residents of the state.

(5) Prompt action is crucial to prevent further deterioration of the health and well-being of Washingtonians.

(6) Addressing an issue of this importance and magnitude demands the full engagement of concerned Washingtonians in a reasoned examination of options to improve access to quality, affordable health care.

NEW SECTION. **Sec. 2.** The Washington citizens' work group on health care reform is established.

(1) After January 30, 2009, the governor shall appoint nine citizen members, who may include, but are not limited to, representatives from business, labor, health care providers and consumer groups, and persons with expertise in health care financing. The citizen members shall be selected from individuals recognized for their independent judgment. In addition, the majority and minority caucus in the house of representatives and the majority and minority caucus in the senate shall submit the names of two members of their caucus to the governor, who shall select one member from each caucus to participate in the work group.

(2) Staff support for the work group shall be provided by the office of financial management. Consistent with funds appropriated specifically for this purpose, two full-time staff shall be hired to enable the work group to complete its responsibilities in a timely and effective manner.

(3) The work group shall:

(a) Begin its deliberations by reviewing in detail the findings and recommendations of the 2006 blue ribbon commission on health care costs and access. The work group shall review all prior relevant studies related to health care reform efforts in Washington state and consider the recent health care reform experience of other states such as Massachusetts, Wisconsin, and California;

(b) Engage Washingtonians in a public process on improving access to quality, affordable health care, as described in subsection (4) of this section;

(c) Review and develop recommendations to the governor and the legislature related to the health care reform proposals in section 3 of this act. In reviewing the proposals, the work group shall evaluate the extent to which each proposal:

(i) Provides a medical home for every family;

(ii) Provides health care that Washington families can afford;

(iii) Promotes improved health outcomes, in part through a more efficient delivery system;

(iv) Requires that individuals, employers, and government share in financing the proposal; and

(v) Enables Washington families to choose their provider and health network, and have the option of retaining their current provider.

(d) Through the activities outlined in this act, develop a careful understanding of the essential requirements for health care reform as seen by the many different primary stakeholders in Washington state.

(4) The work group shall design the public engagement process with a goal of having structured, in-depth discussions related to:

(a) Trends or issues that affect affordability, access, quality, and efficiency in our health care system; and

(b) The health care proposals described in section 3 of this act, the principles guiding evaluation of the proposals, and the economic analysis of the proposals.

The public engagement process may include, but is not limited to, public forums, invitational meetings with community leaders or other interested individuals and organizations, and web-based communication.

(5) By November 1, 2009, the work group shall submit a final report to the public, the governor, and the legislature that includes a summary of the information received during the public engagement process, and a summary of the work group's conclusions, and recommendations related to its review of the proposals, including suggestions for the adoption of any health care proposal by the legislature. The work group may develop its own recommended proposal or proposals.

(6) The work group may seek other funds including private contributions and in-kind donations for activities described under this section.

This section expires December 31, 2009.

NEW SECTION. **Sec. 3.** (1) Consistent with funds appropriated specifically for this purpose, the legislature shall contract with an independent consultant with expertise in health economics and actuarial science to evaluate the following health care reform proposals:

(a) A proposal that modifies insurance regulations in Washington state to address specific groups that have lower rates of coverage, such as small employers and young adults. The proposal would authorize the offering of health plans that do not include mandated benefits, allow health plan premiums to be adjusted to reflect the health status and experience of the members of the group purchasing coverage, allow carriers to pool the health risk of young adults separately from other enrollees, and promote the use of high deductible health plans with accompanying health savings accounts;

(b) A proposal that includes the components of health care reform legislation enacted in Massachusetts in 2006 as Chapter 58 of the Acts of 2006 - "An Act Providing Access to Affordable, Quality, Accountable Health Care." The proposal assumes the inclusion of health plan design features that encourage the use of preventive, primary care and evidence-based services;

(c) A proposal to cover all Washingtonians with a comprehensive, standardized benefit package. An independent entity would be established to define the scope of the standardized benefit package, and to undertake a competitive procurement process to offer the package through private health carriers or health care provider networks, with an additional fee-for-service option. The standardized benefit package would be designed to include features that encourage the use of preventive, primary care and evidence-based health services. Washingtonians would purchase the standardized benefit package through the independent entity by choosing a participating carrier, network, or the fee-for-service option; and

(d) A proposal to establish a single payer health care system, similar to the health care system in Canada in which a governmental entity contracts with and pays health care providers to deliver a defined package of health services to all Washingtonians.

(2) In addition to the evaluation of the four proposals described in subsection (1) of this section, the consultant shall conduct a review to validate the actuarial analysis of the insurance commissioner's proposed guaranteed benefit plan prepared in 2008 at the request of the insurance commissioner.

(3) Each evaluation shall address the impact of implementation of the proposal on:

(a) The number of Washingtonians covered and number remaining uninsured;

(b) The scope of coverage available to persons covered under the proposal;

(c) The impact on affordability of health care to individuals, businesses, and government;

(d) The redistribution of amounts currently spent by individuals, businesses, and government on health, as well as any savings;

(e) The cost of health care as experienced throughout the state by individuals and families, employees of small and large businesses, businesses of all sizes, associations, local governments, public health districts, and by the state;

(f) The impact on employment;

(g) The impact on consumer choice;

(h) Administrative efficiencies and resulting savings;

(i) The impact on hospital charity care; and

(j) The extent to which each proposal promotes:

(i) Improved health outcomes;

(ii) Prevention and early intervention;

(iii) Chronic care management;

(iv) Services based on empirical evidence;

(v) Incentives to use effective and necessary services;

(vi) Disincentives to discourage use of marginally effective or inappropriate services; and

(vii) A medical home.

(4) To the extent that any proposal has recent, detailed analysis available, the consultant shall review and may make use of the available analysis.

(5) The results of the evaluation under this section shall be submitted to the governor, the health policy committees of the legislature, and the work group on or before December 15, 2008.

NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6333.

Senator Keiser spoke in favor of the motion.

Senator Pflug spoke against the motion.

MOTION

On motion of Senator Regala, Senator Fairley was excused.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6333.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6333 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6333, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6333, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 28; Nays, 18; Absent, 1; Excused, 2.

Voting yea: Senators Berkey, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 28

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

Absent: Senator Oemig - 1

Excused: Senators Brown and Fairley - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 6333, 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.

The Senate resumed consideration of Second Substitute Senate Bill No. 5596 which had been deferred earlier in the day.

MOTION

On motion of Senator Franklin, the motion by Senator Franklin to concur in the House amendments to Second Substitute Senate Bill No. 5596 was withdrawn.

MOTION

Senator Franklin moved that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5596 and ask the House to recede therefrom.

Senator Franklin spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Franklin that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5596 and ask the House to recede therefrom.

The motion by Senator Franklin carried and the Senate refused to concur in the House amendment(s) to Second Substitute Senate Bill No. 5596 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6339, with the following amendment: 6339-S AMH SGTA TAYT 216.

On page 2, beginning on line 15, after "under" strike all material through "7101)" on line 16 and insert "22 U.S.C. Sec. 7102(8) as it existed on the effective date of this subsection, or such subsequent date as may be provided by the secretary of state by rule, consistent with the purposes of this subsection"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6339.

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 Senate concur in the House amendment(s) to Substitute Senate Bill No. 6339.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6339 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6339, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6339, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brown and Fairley - 2

SUBSTITUTE SENATE BILL NO. 6339, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2008

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6377, with the following amendment:6377-S2 AMH APP H5904.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that many secondary career and technical education programs have made progress in retooling for the twenty-first century by aligning with state and nationally certified programs that meet industry standards and by increasing the rigor of academic content in core skills such as reading, writing, mathematics, and science.

(2) However, the legislature also finds that increased expectations for students to meet the state's academic learning standards require students to take remedial courses. The state board of education is considering increasing credit requirements for high school graduation. Together these policies could restrict students from pursuing high quality career and technical education programs because students would not have adequate time in their schedules to enroll in a progressive sequence of career and technical courses.

(3) The legislature further finds that teachers, counselors, students, and parents are not well-informed about the opportunities presented by high quality career and technical education. Secondary career and technical education is not a stopping point but a beginning point for further education, including through a bachelor's degree. Secondary preapprenticeships and courses aligned to industry standards can lead directly to workforce entry as well as to additional education. Career and technical education is a proven strategy to engage and motivate students, including students at risk of dropping out of school entirely.

(4) Finally, the legislature finds that state policies have been piecemeal in support of career and technical education. Laws exist to require state approval of career and technical programs, but could be strengthened by requiring alignment with industry standards and focusing on high-demand fields. Tech prep consortia have developed articulation agreements for dual credit and smooth transitions between high schools and colleges, but agreements remain highly decentralized between individual faculty and individual schools. Laws require school districts to create equivalences between academic and career and technical courses, but more support and professional development is needed to expand these opportunities.

(5) Therefore it is the legislature's intent to identify the gaps in current laws and policies regarding secondary career and technical education and fill those gaps in a comprehensive fashion to create a coherent whole. This act seeks to increase the quality and rigor of secondary career and technical education, improve links to postsecondary education, encourage and facilitate academic instruction through career and technical courses, and expand access to and awareness of the opportunities offered by high quality career and technical education.

PART I
QUALITY, RIGOR, AND LINKS TO POSTSECONDARY EDUCATION

Sec. 101. RCW 28C.04.100 and 2001 c 336 s 2 are each amended to read as follows:

(1) To ensure high quality career and technical programs, the office of the superintendent of public instruction shall periodically review and approve the plans of local districts for the delivery of career and technical education. Standards for career and technical programs shall be established by the office of the superintendent of public instruction. ((~~These standards should:~~)) The office of the superintendent of public instruction shall develop a schedule for career and technical education plan reapproval under this section that includes an abbreviated review process for programs reapproved after 2005, but before the effective date of this section. All school district career and technical education programs must meet the requirements of this section by August 31, 2010.

(2) To receive approval, school district plans must:

(a) Demonstrate how career and technical education programs will ensure academic rigor; align with the state's education reform requirements; help address the skills gap of Washington's economy; and maintain strong relationships with local career and technical education advisory councils for the design and delivery of career and technical education; ((~~and~~))

(b) Demonstrate a strategy to align the five-year planning requirement under the federal Carl Perkins act with the state and district ((~~vocational~~)) career and technical program planning requirements that include:

(i) An assessment of equipment and technology needs to support the skills training of technical students;

(ii) An assessment of industry internships required for teachers to ensure the ability to prepare students for industry-defined standards or certifications, or both;

(iii) An assessment of the costs of supporting job shadows, mentors, community service and industry internships, and other activities for student learning in the community; ((~~and~~))

(iv) A description of the leadership activities to be provided for technical education students; and

(v) Annual local school board approval;

(c) Demonstrate that all preparatory career and technical education courses offered by the district meet the requirements of RCW 28C.04.110 (as recodified by this act);

(d) Demonstrate progress toward meeting or exceeding the targets established under section 104 of this act of an increased number of career and technical programs in high-demand fields; and

(e) Demonstrate that approved career and technical programs maximize opportunities for students to earn dual credit for high school and college.

((~~(2)~~)) (3) To ensure high quality career education programs and services in secondary schools, the office of the superintendent of public instruction may provide technical assistance to local districts and develop state guidelines for the delivery of career guidance in secondary schools.

((~~(3)~~)) (4) To ensure leadership development, the staff of the office of the superintendent of public instruction may serve as the state advisors to Washington state FFA, Washington future business leaders of America, Washington DECA, Washington ((~~SkillsUSA-VICA~~)) SkillsUSA, Washington family, career and community leaders, and Washington technology students association, and any additional career or technical student organizations that are formed. Working with the directors or executive secretaries of these organizations, the office of the superintendent of public instruction may develop tools for the coordination of leadership activities with the curriculum of technical education programs.

((~~(4)~~)) (5) As used in this section, "career and technical education" means a planned program of courses and learning experiences that begins with exploration of career options; supports basic academic and life skills; and enables achievement of high academic standards, leadership, options for high skill, high wage employment preparation, and advanced and continuing education.

NEW SECTION. **Sec. 102.** (1) The office of the superintendent of public instruction, in consultation with the workforce training and education coordinating board, the Washington state apprenticeship and training council, and the state board for community and technical colleges, shall develop a list of statewide high-demand programs for secondary career and technical education. The list shall be developed using the high-demand list maintained by workforce development councils in consultation with the employment security department, the high employer demand programs of study identified by the workforce training and education coordinating board, and the high employer demand programs of study identified by the higher education coordinating board. Local school districts may recommend additional high-demand programs in consultation with local career and technical education advisory committees by submitting evidence of local high demand.

(2) As used in this section and in sections 104, 105, 107, and 307 of this act:

(a) "High-demand program" means a career and technical education program that prepares students for either a high employer demand program of study or a high-demand occupation, or both.

(b) "High employer demand program of study" means an apprenticeship or an undergraduate or graduate certificate or degree program in which the number of students per year prepared for employment from in-state programs is substantially fewer than the number of projected job openings per year in that field, either statewide or in a substate region.

(c) "High-demand occupation" means an occupation with a substantial number of current or projected employment opportunities.

Sec. 103. RCW 28C.04.110 and 2006 c 115 s 2 are each amended to read as follows:

((~~The superintendent of public instruction shall develop a list of approved career and technical education programs that qualify for the objective alternative assessment for career and technical students developed under RCW 28A.655.065. Programs on the list~~)) All approved preparatory secondary career and technical education programs must meet the following minimum criteria:

(1) Either:

(a) Lead to a certificate or credential that is state or nationally recognized by trades, industries, or other professional associations as necessary for employment or advancement in that field; or

(b) Allow students to earn dual credit for high school and college through tech prep, advanced placement, or other agreements or programs;

(2) ((~~Require~~)) Be comprised of a sequenced progression of multiple courses((~~, both exploratory and preparatory,~~)) that are ((~~vocationally~~)) technically intensive and rigorous; and

(3) ((~~Have a high potential for providing the program completer with gainful employment or~~)) Lead to workforce entry ((~~into a~~)), state or nationally approved apprenticeships, or postsecondary ((~~workforce training program~~)) education in a related field.

NEW SECTION. **Sec. 104.** (1) The office of the superintendent of public instruction shall establish performance measures and targets and monitor the performance of career and technical education programs in at least the following areas:

(a) Student participation in and completion of high-demand programs as identified under section 102 of this act;

(b) Students earning dual credit for high school and college; and

(c) Performance measures and targets established by the workforce training and education coordinating board, including but not limited to student academic and technical skill attainment, graduation rates, postgraduation employment or enrollment in postsecondary education, and other measures and targets as required by the federal Carl Perkins act, as amended.

(2) If a school district fails to meet the performance targets established under this section, the office of the superintendent of public instruction may require the district to submit an improvement plan. If a district fails to implement an improvement plan or continues to fail to meet the performance targets for three consecutive years, the office of the superintendent of public instruction may use this failure as the basis to deny the approval or reapproval of one or more of the district's career and technical education programs.

NEW SECTION. **Sec. 105.** Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall allocate grants to middle schools, high schools, or skill centers, to develop or upgrade high-demand career and technical education programs as identified under section 102 of this act. Grant funds shall be allocated on a one-time basis and may be used to purchase or improve curriculum, create preapprenticeship programs, upgrade technology and equipment to meet industry standards, and for other purposes intended to initiate a new program or improve the rigor and quality of a high-demand program. Priority in allocating the funds shall be given to programs that are also considered high cost due to the types of technology and equipment necessary to maintain industry certification. Priority shall also be given to programs considered in most high demand in the state or applicable region.

Sec. 106. 2007 c 399 s 3 (uncodified) is amended to read as follows:

(1) The funding structure alternatives developed by the joint task force under section 2 of this act shall take into consideration the legislative priorities in this section, to the maximum extent possible and as appropriate to each formula.

(2) The funding structure should reflect the most effective instructional strategies and service delivery models and be based on research-proven education programs and activities with demonstrated cost benefits. In reviewing the possible strategies and models to include in the funding structure the task force shall, at a minimum, consider the following issues:

(a) Professional development for all staff;

(b) Whether the compensation system for instructional staff shall include pay for performance, knowledge, and skills elements; regional cost-of-living elements; elements to recognize assignments that are difficult; recognition for the professional teaching level certificate in the salary allocation model; and a plan to implement the pay structure;

(c) Voluntary all-day kindergarten;

(d) Optimum class size, including different class sizes based on grade level and ways to reduce class size;

(e) Focused instructional support for students and schools;

(f) Extended school day and school year options; ((~~and~~))

(g) Health and safety requirements; and

(h) Staffing ratios and other components needed to support career and technical education programs.

(3) The recommendations should provide maximum transparency of the state's educational funding system in order to better help parents, citizens, and school personnel in Washington understand how their school system is funded.

(4) The funding structure should be linked to accountability for student outcomes and performance.

NEW SECTION. **Sec. 107.** (1) The office of the superintendent of public instruction, the workforce training and education coordinating board, the state board for community and technical colleges, the higher education coordinating board, and the council of presidents shall work with local school districts, workforce education programs in colleges, tech prep consortia, and four-year institutions of higher education to develop model career and technical education programs of study as described by this section.

(2) Career and technical education programs of study:

(a) Incorporate secondary and postsecondary education elements;

(b) Include coherent and rigorous academic content aligned with state learning standards and relevant career and technical content in a coordinated, nonduplicative progression of courses that are aligned with postsecondary education in a related field;

(c) Include opportunities for students to earn dual high school and college credit; and

(d) Lead to an industry-recognized credential or certificate at the postsecondary level, or an associate or baccalaureate degree.

(3) During the 2008-09 school year, model career and technical education programs of study shall be developed for the following high-demand programs: Construction, health care, and information technology. Each school year thereafter, the office of the superintendent of public instruction, the state board for community and technical colleges, the higher education coordinating board, and the workforce training and education coordinating board shall select additional programs of study to develop, with a priority on high-demand programs as identified under section 102 of this act.

NEW SECTION. **Sec. 108.** A new section is added to chapter 28B.50 RCW to read as follows:

(1) It is the legislature's intent to recognize and support the work of community and technical colleges, high schools, and skill centers in creating articulation and dual credit agreements

for career and technical education students, in part by codifying current practice.

(2) Community and technical colleges shall create agreements with high schools and skill centers to offer dual high school and college credit for secondary career and technical courses. Agreements shall be subject to approval by the chief instructional officer of the college and the principal and the career and technical education director of the high school or the executive director of the skill center.

(3) Community and technical colleges may create dual credit agreements with high schools and skill centers that are located outside the college district boundary or service area.

(4) If a community or technical college has created an agreement with a high school or skill center to offer college credit for a secondary career and technical course, all community and technical colleges shall accept the course for an equal amount of college credit.

PART II
ACADEMIC INSTRUCTION THROUGH CAREER AND TECHNICAL EDUCATION

NEW SECTION. **Sec. 201.** (1) The office of the superintendent of public instruction shall support school district efforts under RCW 28A.230.097 to adopt course equivalencies for career and technical courses by:

(a) Recommending career and technical curriculum suitable for course equivalencies;

(b) Publicizing best practices for high schools and school districts in developing and adopting course equivalencies; and

(c) In consultation with the Washington association for career and technical education, providing professional development, technical assistance, and guidance for school districts seeking to expand their lists of equivalent courses.

(2) The office of the superintendent of public instruction shall provide professional development, technical assistance, and guidance for school districts to develop career and technical course equivalencies that also qualify as advanced placement courses.

(3) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall allocate grant funds to school districts to increase the integration and rigor of academic instruction in career and technical courses. Grant recipients are encouraged to use grant funds to support teams of academic and technical teachers using a research-based professional development model supported by the national research center for career and technical education. The office of the superintendent of public instruction may require that grant recipients provide matching resources using federal Carl Perkins funds or other fund sources.

Sec. 202. RCW 28A.230.097 and 2006 c 114 s 2 are each amended to read as follows:

(1) Each high school or school district board of directors shall adopt course equivalencies for career and technical high school courses offered to students ((~~at the~~)) in high schools and skill centers. A career and technical course equivalency may be for whole or partial credit. Each school district board of directors shall develop a course equivalency approval procedure.

(2) Career and technical courses determined to be equivalent to academic core courses, in full or in part, by the high school or school district shall be accepted as meeting core requirements, including graduation requirements, if the courses are recorded on the student's transcript using the equivalent academic high school department designation and title. Full or partial credit shall be recorded as appropriate. The high school or school district shall also issue and keep record of course completion certificates that demonstrate that the career and technical courses were successfully completed as needed for industry certification, college credit, or preapprenticeship, as applicable. The certificate shall be either part of the student's high school and beyond plan or the student's culminating project, as determined by the student. The office of the superintendent of public instruction shall develop and make available electronic samples of certificates of course completion.

NEW SECTION. **Sec. 203.** A new section is added to chapter 28A.245 RCW to read as follows:

Skill centers may enter into agreements with one or more cooperating school districts to grant a high school diploma on behalf of the district so that students who are juniors and seniors have an opportunity to attend the skill center on a full-time basis without coenrollment at a district high school. To avoid competition with other high schools in the cooperating district, high school completion programs operated by skill centers shall be designed as dropout prevention and retrieval programs for at-risk and credit-deficient students or for fifth-year seniors. A skill center may use grant awards from the building bridges program under RCW 28A.175.025 to develop high school completion programs as provided in this section.

NEW SECTION. **Sec. 204.** (1) Subject to funds appropriated for this purpose, the secondary integrated basic education and skills training (I-BEST) pilot project is created to integrate career and technical instruction, core academic and basic skills, and English as a second language, for secondary school students. The objective of the pilot project is to determine whether and how a successful community and technical college instructional model can be adapted and implemented at a secondary school level.

(2) The goal of secondary I-BEST is to enable and motivate secondary students who are struggling with language and academic skills to earn a high school diploma and be prepared for workforce entry or further education and training in a career and technical field. Under the pilot project, academic, career and technical, and English-as-a second-language teachers shall provide instruction through team and coteaching. Course content shall be integrated across the three domains of career and technical, academic, and language.

(3) The office of the superintendent of public instruction shall allocate pilot project grants to high schools or skill centers on a competitive basis. Grants are for a three-year period. The office of the superintendent of public instruction shall work with the state board for community and technical colleges, grant recipients, and the Washington State University social and economic sciences research center to design and implement an evaluation of the pilot project that includes comparisons of gains in achievement for students in the project compared to other similar students. A report on the pilot project and results of the evaluation shall be submitted to the governor and the education and fiscal committees of the legislature by December 1, 2011.

(4) The state board for community and technical colleges shall provide technical assistance and advice to the office of the superintendent of public instruction and the pilot project regarding best practices for I-BEST, including program design, professional development, assessment, and evaluation. The state board shall also designate one or more community or technical colleges with exemplary postsecondary I-BEST programs to serve as mentors for the pilot project.

(5) This section expires June 30, 2012.

Sec. 205. RCW 28A.655.065 and 2007 c 354 s 6 are each amended to read as follows:

(1) The legislature has made a commitment to rigorous academic standards for receipt of a high school diploma. The primary way that students will demonstrate that they meet the standards in reading, writing, mathematics, and science is through the Washington assessment of student learning. Only objective assessments that are comparable in rigor to the state assessment are authorized as an alternative assessment. Before seeking an alternative assessment, the legislature expects students to make a genuine effort to meet state standards, through regular and consistent attendance at school and participation in extended learning and other assistance programs.

(2) Under RCW 28A.655.061, beginning in the 2006-07 school year, the superintendent of public instruction shall implement objective alternative assessment methods as provided in this section for students to demonstrate achievement of the state standards in content areas in which the student has not yet met the standard on the high school Washington assessment of student learning. A student may access an alternative if the student meets applicable eligibility criteria in RCW 28A.655.061 and this section and other eligibility criteria established by the superintendent of public instruction, including but not limited to attendance criteria and participation in the remediation or supplemental instruction contained in the student learning plan developed under RCW 28A.655.061. A school district may waive attendance and/or remediation criteria for special, unavoidable circumstances.

(3) For the purposes of this section, "applicant" means a student seeking to use one of the alternative assessment methods in this section.

(4) One alternative assessment method shall be a combination of the applicant's grades in applicable courses and the applicant's highest score on the high school Washington assessment of student learning, as provided in this subsection. A student is eligible to apply for the alternative assessment method under this subsection (4) if the student has a cumulative grade point average of at least 3.2 on a four point grading scale. The superintendent of public instruction shall determine which high school courses are applicable to the alternative assessment method and shall issue guidelines to school districts.

(a) Using guidelines prepared by the superintendent of public instruction, a school district shall identify the group of students in the same school as the applicant who took the same high school courses as the applicant in the applicable content area. From the group of students identified in this manner, the district shall select the comparison cohort that shall be those students who met or slightly exceeded the state standard on the Washington assessment of student learning.

(b) The district shall compare the applicant's grades in high school courses in the applicable content area to the grades of students in the comparison cohort for the same high school courses. If the applicant's grades are equal to or above the mean grades of the comparison cohort, the applicant shall be deemed to have met the state standard on the alternative assessment.

(c) An applicant may not use the alternative assessment under this subsection (4) if there are fewer than six students in the comparison cohort.

(5) The superintendent of public instruction shall develop an alternative assessment method that shall be an evaluation of a collection of work samples prepared and submitted by the applicant((~~, as provided in this subsection and, for career and technical applicants, the additional requirements of subsection (6) of this section~~)).

(a) The superintendent of public instruction shall develop guidelines for the types and number of work samples in each content area that may be submitted as a collection of evidence that the applicant has met the state standard in that content area. Work samples may be collected from academic, career and technical, or remedial courses and may include performance tasks as well as written products. The superintendent shall submit the guidelines for approval by the state board of education.

(b) The superintendent shall develop protocols for submission of the collection of work samples that include affidavits from the applicant's teachers and school district that the samples are the work of the applicant and a requirement that a portion of the samples be prepared under the direct supervision of a classroom teacher. The superintendent shall submit the protocols for approval by the state board of education.

(c) The superintendent shall develop uniform scoring criteria for evaluating the collection of work samples and submit the scoring criteria for approval by the state board of education. Collections shall be scored at the state level or regionally by a panel of educators selected and trained by the superintendent to ensure objectivity, reliability, and rigor in the evaluation. An educator may not score work samples submitted by applicants from the educator's school district. If the panel awards an applicant's collection of work samples the minimum required score, the applicant shall be deemed to have met the state standard on the alternative assessment.

(d) Using an open and public process that includes consultation with district superintendents, school principals, and other educators, the state board of education shall consider the guidelines, protocols, scoring criteria, and other information regarding the collection of work samples submitted by the superintendent of public instruction. The collection of work samples may be implemented as an alternative assessment after the state board of education has approved the guidelines, protocols, and scoring criteria and determined that the collection of work samples: (i) Will meet professionally accepted standards for a valid and reliable measure of the grade level expectations and the essential academic learning requirements; and (ii) is comparable to or exceeds the rigor of the skills and knowledge that a student must demonstrate on the Washington assessment of student learning in the applicable content area. The state board shall make an approval decision and determination no later than December 1, 2006, and thereafter may increase the required rigor of the collection of work samples.

(e) By September of 2006, the superintendent of public instruction shall develop informational materials for parents, teachers, and students regarding the collection of work samples and the status of its development as an alternative assessment method. The materials shall provide specific guidance regarding the type and number of work samples likely to be required, include examples of work that meets the state learning standards, and describe the scoring criteria and process for the collection. The materials shall also encourage students in the graduating class of 2008 to begin creating a collection if they believe they may seek to use the collection once it is implemented as an alternative assessment.

(6)(a) For students enrolled in a career and technical education program approved under RCW 28C.04.110 (as recodified by this act), the superintendent of public instruction shall develop additional guidelines for ((~~a~~)) collections of work samples that ((~~evidences that the collection:~~

~~(i) Is relevant to the student's particular career and technical program;~~

~~(ii) Focuses on the application of academic knowledge and skills within the program;~~

~~(iii) Includes completed activities or projects where demonstration of academic knowledge is inferred; and~~

~~(iv) Is related to the essential academic learning requirements and state standards that students must meet to earn a certificate of academic achievement or certificate of individual achievement, but also represents the knowledge and skills that successful individuals in the career and technical field of the approved program are expected to possess.~~

~~(b) To meet the state standard on the alternative assessment under this subsection (6), an applicant must also attain the state or nationally recognized certificate or credential associated with the approved career and technical program~~)) are tailored to different career and technical programs. The additional guidelines shall:

(i) Provide multiple examples of work samples that are related to the particular career and technical program;

(ii) Permit work samples based on completed activities or projects where demonstration of academic knowledge is inferred; and

(iii) Provide multiple examples of work samples drawn from career and technical courses.

(b) The purpose of the additional guidelines is to provide a clear pathway toward a certificate of academic achievement for

career and technical students by showing them applied and relevant opportunities to demonstrate their knowledge and skills, and to provide guidance to teachers in integrating academic and career and technical instruction and assessment and assisting career and technical students in compiling a collection. The superintendent of public instruction shall develop and disseminate additional guidelines for no fewer than ten career and technical education programs representing a variety of program offerings by no later than September 1, 2008. Guidelines for ten additional programs shall be developed and disseminated no later than June 1, 2009.

(c) The superintendent shall consult with community and technical colleges, employers, the workforce training and education coordinating board, apprenticeship programs, and other regional and national experts in career and technical education to create ((~~an~~)) appropriate ((~~collection~~)) guidelines and examples of work samples and other evidence of a career and technical student's knowledge and skills on the state academic standards.

(7) The superintendent of public instruction shall study the feasibility of using existing mathematics assessments in languages other than English as an additional alternative assessment option. The study shall include an estimation of the cost of translating the tenth grade mathematics assessment into other languages and scoring the assessments should they be implemented.

(8) The superintendent of public instruction shall implement:

(a) By June 1, 2006, a process for students to appeal the score they received on the high school assessments; and

(b) By January 1, 2007, guidelines and appeal processes for waiving specific requirements in RCW 28A.655.061 pertaining to the certificate of academic achievement and to the certificate of individual achievement for students who: (i) Transfer to a Washington public school in their junior or senior year with the intent of obtaining a public high school diploma, or (ii) have special, unavoidable circumstances.

(9) The state board of education shall examine opportunities for additional alternative assessments, including the possible use of one or more standardized norm-referenced student achievement tests and the possible use of the reading, writing, or mathematics portions of the ACT ASSET and ACT COMPASS test instruments as objective alternative assessments for demonstrating that a student has met the state standards for the certificate of academic achievement. The state board shall submit its findings and recommendations to the education committees of the legislature by January 10, 2008.

(10) The superintendent of public instruction shall adopt rules to implement this section.

PART III
EXPANDING ACCESS AND AWARENESS

NEW SECTION. **Sec. 301.** (1) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall develop and conduct an ongoing campaign for career and technical education to increase awareness among teachers, counselors, students, parents, principals, school administrators, and the general public about the opportunities offered by rigorous career and technical education programs. Messages in the campaign shall emphasize career and technical education as a high quality educational pathway for students, including for students who seek advanced education that includes a bachelor's degree or beyond. In particular, the office shall provide information about the following:

(a) The model career and technical education programs of study developed under section 107 of this act;

(b) Career and technical education course equivalencies and dual credit for high school and college;

(c) The career and technical education alternative assessment guidelines under RCW 28A.655.065;

(d) The availability of scholarships for postsecondary workforce education, including the Washington award for vocational excellence, and apprenticeships through the opportunity grant program under RCW 28B.50.271, grants under section 302 of this act, and other programs; and

(e) Education, apprenticeship, and career opportunities in emerging and high-demand programs.

(2) The office shall use multiple strategies in the campaign depending on available funds, including developing an interactive web site to encourage and facilitate career exploration; conducting training and orientation for guidance counselors and teachers; and developing and disseminating printed materials.

(3) The office shall seek advice, participation, and financial assistance from the workforce training and education coordinating board, higher education institutions, foundations, employers, apprenticeship and training councils, workforce development councils, and business and labor organizations for the campaign.

NEW SECTION. **Sec. 302.** (1) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall provide grants to eligible students to offset the costs of required examination or testing fees associated with obtaining state or industry certification in the student's career and technical education program.

(2) The office shall establish maximum grant amounts and a process for students to apply for the grants.

(3) For the purposes of this section, "eligible student" means:

(a) A student enrolled in a secondary career and technical education program where state or industry certification can be obtained without additional postsecondary work or study; or

(b) A student who completed a secondary career and technical education program in a Washington public school and is seeking state or industry certification in a program requiring additional postsecondary work or study or where there are age limitations on certification.

(4) Eligible students must have a family income that is at or below two hundred percent of the federal poverty level using the most current guidelines available from the United States department of health and human services.

Sec. 303. RCW 28A.600.045 and 2006 c 117 s 2 are each amended to read as follows:

(1) The legislature encourages each middle school, junior high school, and high school to implement a comprehensive guidance and planning program for all students. The purpose of the program is to support students as they navigate their education and plan their future; encourage an ongoing and personal relationship between each student and an adult in the school; and involve parents in students' educational decisions and plans.

(2) A comprehensive guidance and planning program is a program that contains at least the following components:

(a) A curriculum intended to provide the skills and knowledge students need to select courses, explore options, plan for their future, and take steps to implement their plans. The curriculum may include such topics as analysis of students' test results; diagnostic assessments of students' academic strengths and weaknesses; use of assessment results in developing students' short-term and long-term plans; assessments of student interests and aptitude; goal-setting skills; planning for high school course selection; independent living skills; exploration of options and opportunities for career and technical education at the secondary and postsecondary level; exploration of career opportunities in emerging and high-demand programs including apprenticeships; and postsecondary options and how to access them;

(b) Regular meetings between each student and a teacher who serves as an advisor throughout the student's enrollment at the school;

(c) Student-led conferences with the student's parents, guardians, or family members and the student's advisor for the purpose of demonstrating the student's accomplishments; identifying weaknesses; planning and selecting courses; and setting long-term goals; and

(d) Data collection that allows schools to monitor students' progress.

(3) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall provide support for comprehensive guidance and planning programs in public schools, including providing ongoing development and improvement of the curriculum described in subsection (2) of this section.

NEW SECTION. **Sec. 304.** A new section is added to chapter 28A.245 RCW to read as follows:

(1) Subject to the provisions of this section and section 305 of this act, a skill center may enter into an agreement with the community or technical college in which district the skill center is located to provide career and technical education courses necessary to complete an industry certificate or credential for students who have received a high school diploma.

(2) To qualify for enrollment under this section, a student must have been enrolled in the skill center before receiving the high school diploma and must remain continuously enrolled in the skill center. A student may enroll only in those courses necessary to complete the industry certificate or credential associated with the student's career and technical program.

(3) Students enrolled in a skill center under this section shall be considered community and technical college students for purposes of enrollment reporting, tuition, and financial aid. The skill center shall maintain enrollment data for students enrolled under this section separately from data on secondary school enrollment.

NEW SECTION. **Sec. 305.** A new section is added to chapter 28B.50 RCW to read as follows:

(1) A community or technical college may enter into an agreement with a skill center within the college district to allow students who have completed a high school diploma to remain enrolled in the skill center in courses necessary to complete an industry certificate or credential in the student's career and technical program as provided by section 304 of this act.

(2) Before entering an agreement, a community or technical college may require the skill center to provide evidence that:

(a) The skill center has adequate facilities and capacity to offer the necessary courses and the community or technical college does not have adequate facilities or capacity; or

(b) The community or technical college does not offer the particular industry certificate program or courses proposed by the skill center.

(3) Under the terms of the agreement, the community or technical college shall report the enrolled student as a state-supported student and may charge the student tuition and fees. The college shall transmit to the skill center an agreed-upon amount per enrolled full-time equivalent student to pay for the student's courses at the skill center.

Sec. 306. RCW 28B.102.040 and 2005 c 518 s 918 are each amended to read as follows:

(1) The board may select participants based on an application process conducted by the board or the board may utilize selection processes for similar students in cooperation with the professional educator standards board or the office of the superintendent of public instruction.

(2) If the board selects participants for the program, it shall establish a selection committee for screening and selecting recipients of the conditional scholarships. The criteria shall emphasize factors demonstrating excellence including but not limited to superior scholastic achievement, leadership ability, community contributions, bilingual ability, willingness to commit to providing teaching service in shortage areas, and an ability to act as a role model for students. Priority will be given to individuals seeking certification or an additional endorsement in math, science, technology education, agricultural education, business and marketing education, family and consumer science education, or special education.

((~~For fiscal years 2006 and 2007, additional priority shall be given to such individuals who are also bilingual. It is the intent of the legislature to develop a pool of dual-language teachers in order to meet the challenge of educating students who are dominant in languages other than English.~~))

NEW SECTION. **Sec. 307.** (1) Subject to funds appropriated for this purpose, the in-demand scholars program is created. The purpose of the program is to replicate a successful pilot program to attract high school students into high-demand fields, as identified under section 102 of this act, that require one to three years of postsecondary education, including apprenticeships. The program shall be administered by the workforce training and education coordinating board.

(2) The workforce training and education coordinating board, in consultation with representatives from the statewide association of workforce development councils, the Washington state labor council, and a statewide business association, shall:

(a) Develop a model in-demand scholars program to be implemented by local workforce development councils. The model program shall be sufficiently flexible that councils may customize the design to meet the unique needs and available resources in each region. Under the model program, workforce development councils identify local industries in high-demand fields that are having difficulty filling employee positions that require one to three years of postsecondary education or apprenticeship. Representatives of such industries present the employment opportunities available in their industry to local high school students and inform students about possible job shadowing or internship opportunities in the industry. Students who participate in a job shadow or internship under a model program are eligible to receive an in-demand scholarship if the students enroll in a postsecondary education program or apprenticeship in one of the high-demand fields identified in the model program. Local workforce development councils award the scholarships. Scholarships shall not exceed an amount specified in the omnibus appropriations act and shall be used to offset tuition and related education and training expenses for a maximum of two years;

(b) Determine and make the initial allocation for the in-demand scholars program to each workforce development council, based on its projected outcomes and other criteria. Funding may be reallocated among workforce development councils if necessary based on actual results achieved; and

(c) Require that local workforce development councils submit quarterly reports on the in-demand scholars program, including but not limited to the industries participating and the projected and actual number of students served, students completing job shadows or internships, students entering and completing postsecondary education, students entering the targeted career, and students continuing on to four-year degrees or other additional education.

NEW SECTION. **Sec. 308.** (1) The office of the superintendent of public instruction shall conduct a feasibility study to create technical high schools in Washington state. In conducting the study, the office shall convene an advisory committee including, but not limited to, representatives from school districts, high schools, skill centers, community and technical colleges, workforce development councils, the workforce training and education coordinating board, the Washington association for career and technical education, the Washington state apprenticeship and training council, and the state board for community and technical colleges. Subject to available funds, the office shall contract with a third party to support the study, including examining technical high school models in other states.

(2) The feasibility study shall examine and make recommendations on the following issues:

(a) The definition of a technical high school and how a technical high school might differ from current comprehensive high schools, alternative high schools, or skill centers;

(b) The governance structure for technical high schools, which may be within a single district, a cooperative of multiple districts, or other new governance structures that may be considered;

(c) Funding models and estimated costs to support technical high schools, including both operating and capital funds;

(d) Whether technical high schools should focus on particular student populations or be structured as magnet schools or academies with a particular programmatic focus;

(e) Whether technical high schools should operate with a two-year or four-year program or with part-time or full-time attendance;

(f) The implications of accountability for student achievement with a technical high school, including adequate yearly progress; and

(g) Options, strategies, and estimated costs for possible transition of selected current high schools or skill centers to a technical high school model.

(3) The office of the superintendent of public instruction shall submit an interim progress report to the governor and the education and fiscal committees of the legislature by December 1, 2008, and a final report with recommendations by September 15, 2009.

PART IV
MISCELLANEOUS

Sec. 401. RCW 28A.505.220 and 2005 c 514 s 1103 are each amended to read as follows:

(1) Total distributions from the student achievement fund to each school district shall be based upon the average number of full-time equivalent students in the school district during the previous school year as reported to the office of the superintendent of public instruction by August 31st of the previous school year. The superintendent of public instruction shall ensure that moneys generated by skill center students are returned to skill centers.

(2) The allocation rate per full-time equivalent student shall be three hundred dollars in the 2005-06 school year, three hundred seventy-five dollars in the 2006-07 school year, and four hundred fifty dollars in the 2007-08 school year. For each subsequent school year, the amount allocated per full-time equivalent student shall be adjusted for inflation as defined in RCW 43.135.025(8). These allocations per full-time equivalent student from the student achievement fund shall be supported from the following sources:

(a) Distributions from state property tax proceeds deposited into the student achievement fund under RCW 84.52.068; and

(b) Distributions from the education legacy trust account created in RCW 83.100.230.

(3) Any funds deposited in the student achievement fund under RCW 43.135.045 shall be allocated to school districts on a one-time basis using a rate per full-time equivalent student. These funds are provided in addition to any amounts allocated in subsection (2) of this section.

(4) The school district annual amounts as defined in subsection (2) of this section shall be distributed on the monthly apportionment schedule as defined in RCW 28A.510.250.

Sec. 402. 2007 c 354 s 12 (uncodified) is amended to read as follows:

(1) The superintendent of public instruction and the workforce training and education coordinating board shall jointly convene and staff an advisory committee to identify career and technical education curricula that will assist in preparing students for the state assessment system and provide the opportunity to obtain a certificate of academic achievement.

(2) The advisory committee shall consist of the following nine members:

(a) Four members of the legislature, with two members each appointed by the respective caucuses of the house of representatives and the senate;

(b) One representative from the career and technical education section of the office of the superintendent of public instruction;

(c) One member appointed by the workforce training and education coordinating board; and

(d) Three members appointed by the superintendent of public instruction and the workforce training and education coordinating board based on recommendations from the career and technical education community.

(3) The advisory committee shall appoint a chair from among the nonlegislative members.

(4) Legislative members of the advisory committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(5) By January 15, 2008, the advisory committee shall provide an initial report to the governor and the legislature and, if necessary, a work plan with additional reporting deadlines((~~, which shall not extend beyond December 15, 2008~~)). By December 2009, the advisory committee shall report to the governor and appropriate committees of the legislature with an evaluation of the status of the recommendations made in the initial report and any additional recommendations the advisory committee finds necessary to accomplish the goals of the initial report.

NEW SECTION. **Sec. 403.** RCW 28C.04.100 and 28C.04.110 are each recodified as sections in the new chapter created in section 408 of this act.

NEW SECTION. **Sec. 404.** RCW 28C.22.020 is recodified as a section in chapter 28A.245 RCW.

NEW SECTION. **Sec. 405.** The following acts or parts of acts are each repealed:

(1) RCW 28C.22.005 (Findings) and 1993 c 380 s 1; and

(2) RCW 28C.22.010 (Skill center program operation) and 1993 c 380 s 2.

NEW SECTION. **Sec. 406.** This chapter may be known and cited as the career and technical education act.

NEW SECTION. **Sec. 407.** Part headings used in this act are not any part of the law.

NEW SECTION. **Sec. 408.** Sections 102, 104, 105, 107, 201, 204, 301, 302, 307, and 406 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. **Sec. 409.** Section 401 of this act takes effect September 1, 2008.

NEW SECTION. **Sec. 410.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hobbs moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6377.

Senator Hobbs spoke in favor of the 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 Second Substitute Senate Bill No. 6377.

The motion by Senator Hobbs carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6377 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6377, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6377, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Brown - 1

SECOND SUBSTITUTE SENATE BILL NO. 6377, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6389, with the following amendment: 6389-S AMH FIN H5847.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 84.36 RCW to read as follows:

(1) Military housing is exempt from taxation if the housing meets the following requirements:

(a) The military housing must be situated on land owned in fee by the United States;

(b) The military housing must be used for the housing of military personnel and their families; and

(c) The military housing must be a development project awarded under the military housing privatization initiative.

(2) To qualify property for the exemption under this section, the project owner must submit an application to the department in a form and manner prescribed by the department. Any change in the use of the property that affects the qualification of the property must be reported to the department.

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

(a) "Ancillary supporting facilities" means facilities related to military housing units, including facilities to provide or support elementary or secondary education, child care centers, day care centers, child development centers, tot lots, community centers, housing offices, dining facilities, unit offices, and other similar facilities for the support of military housing.

(b) "Military housing" means military housing units and ancillary supporting facilities.

(c) "Military housing privatization initiative" means the military housing privatization initiative of 1996, 10 U.S.C. Secs. 2871 through 2885, as existing on the effective date of this act, or some later date as the department may provide.

Sec. 2. RCW 82.29A.130 and 2007 c 90 s 1 are each amended to read as follows:

The following leasehold interests shall be exempt from taxes imposed pursuant to RCW 82.29A.030 and 82.29A.040:

(1) All leasehold interests constituting a part of the operating properties of any public utility which is assessed and taxed as a public utility pursuant to chapter 84.12 RCW.

(2) All leasehold interests in facilities owned or used by a school, college or university which leasehold provides housing for students and which is otherwise exempt from taxation under provisions of RCW 84.36.010 and 84.36.050.

(3) All leasehold interests of subsidized housing where the fee ownership of such property is vested in the government of the United States, or the state of Washington or any political subdivision thereof but only if income qualification exists for such housing.

(4) All leasehold interests used for fair purposes of a nonprofit fair association that sponsors or conducts a fair or fairs which receive support from revenues collected pursuant to RCW 67.16.100 and allocated by the director of the department of agriculture where the fee ownership of such property is vested in the government of the United States, the state of Washington or any of its political subdivisions: PROVIDED, That this exemption shall not apply to the leasehold interest of any sublessee of such nonprofit fair association if such leasehold interest would be taxable if it were the primary lease.

(5) All leasehold interests in any property of any public entity used as a residence by an employee of that public entity who is required as a condition of employment to live in the publicly owned property.

(6) All leasehold interests held by enrolled Indians of lands owned or held by any Indian or Indian tribe where the fee ownership of such property is vested in or held in trust by the United States and which are not subleased to other than to a lessee which would qualify pursuant to this chapter, RCW 84.36.451 and 84.40.175.

(7) All leasehold interests in any real property of any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States: PROVIDED, That this exemption shall apply only where it is determined that contract rent paid is greater than or equal to ninety percent of fair market rental, to be determined by the department of revenue using the same criteria used to establish taxable rent in RCW 82.29A.020(2)(b).

(8) All leasehold interests for which annual taxable rent is less than two hundred fifty dollars per year. For purposes of this subsection leasehold interests held by the same lessee in contiguous properties owned by the same lessor shall be deemed a single leasehold interest.

(9) All leasehold interests which give use or possession of the leased property for a continuous period of less than thirty days: PROVIDED, That for purposes of this subsection, successive leases or lease renewals giving substantially continuous use of possession of the same property to the same lessee shall be deemed a single leasehold interest: PROVIDED FURTHER, That no leasehold interest shall be deemed to give use or possession for a period of less than thirty days solely by virtue of the reservation by the public lessor of the right to use the property or to allow third parties to use the property on an occasional, temporary basis.

(10) All leasehold interests under month-to-month leases in residential units rented for residential purposes of the lessee pending destruction or removal for the purpose of constructing a public highway or building.

(11) All leasehold interests in any publicly owned real or personal property to the extent such leasehold interests arises solely by virtue of a contract for public improvements or work executed under the public works statutes of this state or of the United States between the public owner of the property and a contractor.

(12) All leasehold interests that give use or possession of state adult correctional facilities for the purposes of operating correctional industries under RCW 72.09.100.

(13) All leasehold interests used to provide organized and supervised recreational activities for persons with disabilities of all ages in a camp facility and for public recreational purposes by a nonprofit organization, association, or corporation that would be exempt from property tax under RCW 84.36.030(1) if it owned the property. If the publicly owned property is used for any taxable purpose, the leasehold excise taxes set forth in RCW 82.29A.030 and 82.29A.040 shall be imposed and shall be apportioned accordingly.

(14) All leasehold interests in the public or entertainment areas of a baseball stadium with natural turf and a retractable roof or canopy that is in a county with a population of over one million, that has a seating capacity of over forty thousand, and that is constructed on or after January 1, 1995. "Public or entertainment areas" include ticket sales areas, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality and stadium club areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas and suites, the playing field, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include locker rooms or private offices exclusively used by the lessee.

(15) All leasehold interests in the public or entertainment areas of a stadium and exhibition center, as defined in RCW 36.102.010, that is constructed on or after January 1, 1998. For the purposes of this subsection, "public or entertainment areas" has the same meaning as in subsection (14) of this section, and includes exhibition areas.

(16) All leasehold interests in public facilities districts, as provided in chapter 36.100 or 35.57 RCW.

(17) All leasehold interests in property that is: (a) Owned by the United States government or a municipal corporation; (b) listed on any federal or state register of historical sites; and (c) wholly contained within a designated national historic reserve under 16 U.S.C. Sec. 461.

(18) All leasehold interests in the public or entertainment areas of an amphitheater if a private entity is responsible for one hundred percent of the cost of constructing the amphitheater which is not reimbursed by the public owner, both the public owner and the private lessee sponsor events at the facility on a regular basis, the lessee is responsible under the lease or agreement to operate and maintain the facility, and the amphitheater has a seating capacity of over seventeen thousand reserved and general admission seats and is in a county with a population of over three hundred fifty thousand, but less than four hundred twenty-five thousand. For the purposes of this subsection, "public or entertainment areas" include box offices or other ticket sales areas, entrance gates, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality areas, kitchens or other work areas primarily servicing other public or entertainment areas, public rest room areas, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas including lawn seating areas and suites, stages, and any other areas to which the public has access or which are used for the production of the entertainment event or other public usage, and any other personal property used for these purposes. "Public or entertainment areas" does not include office areas used predominately by the lessee.

(19) All leasehold interests in real property used for the placement of military housing meeting the requirements of section 1 of this act."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Marr moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6389.

Senator Marr spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Marr that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6389.

The motion by Senator Marr carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6389 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6389, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6389, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Brown - 1

SUBSTITUTE SENATE BILL NO. 6389, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2008

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6421, with the following amendment: 6421 AMH APP H5897.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 74.09 RCW to read as follows:

The department shall provide coverage under this chapter for smoking cessation counseling services, as well as prescription and nonprescription agents when used to promote smoking cessation, so long as such agents otherwise meet the definition of "covered outpatient drug" in 42 U.S.C. Sec. 1396r-8(k). However, the department may initiate an individualized inquiry and determine and implement by rule appropriate coverage limitations as may be required to encourage the use of effective, evidence-based services and prescription and nonprescription agents. The department shall track per-capita expenditures for a cohort of clients that receive smoking

cessation benefits, and submit a cost-benefit analysis to the legislature on or before January 1, 2012.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Pridemore moved that the Senate concur in the House amendment(s) to Senate Bill No. 6421.

Senator Pridemore spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Senate Bill No. 6421.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6421 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6421, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6421, 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, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SENATE BILL NO. 6421, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2008

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6468, with the following amendment: 6468-S2 AMH FIN H5932.1

Beginning on page 1, line 6, strike all of sections 1 through 3 and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that recent occurrences of colony collapse disorder and the resulting loss of bee hives will have an economic impact on the state's agricultural sector. The legislature intends to provide temporary business and occupation tax relief for Washington's apiarists.

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

(1) This chapter does not apply to amounts derived from the wholesale sale of honey bee products by an eligible apiarist who owns or keeps bee colonies and who does not qualify for an exemption under RCW 82.04.330 in respect to such sales.

(2) The exemption provided in subsection (1) of this section does not apply to any person selling such products at retail or to any person selling manufactured substances or articles.

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

(a) "Bee colony" means a natural group of honey bees containing seven thousand or more workers and one or more queens, housed in a man-made hive with movable frames, and operated as a beekeeping unit.

(b) "Eligible apiarist" means a person who owns or keeps one or more bee colonies and who grows, raises, or produces honey bee products for sale at wholesale and is registered under RCW 15.60.021.

(c) "Honey bee products" means queen honey bees, packaged honey bees, honey, pollen, bees wax, propolis, or other substances obtained from honey bees. "Honey bee products" does not include manufactured substances or articles."

Renumber the remaining sections consecutively, correct internal references accordingly, and correct the title.

On page 4, line 8, after "in" strike "RCW 82.08.865" and insert "section 2 of this act"

On page 4, line 15, after "in" strike "RCW 82.08.865" and insert "section 2 of this act"

On page 4, line 22, after "in" strike "RCW 82.08.865" and insert "section 2 of this act"

On page 4, after line 26, insert the following:

"NEW SECTION. **Sec. 8.** This act expires July 1, 2013."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rasmussen moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6468.

MOTION

On motion of Senator Hobbs, Senator Regala was excused.

The President declared the question before the Senate to be the motion by Senator Rasmussen that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6468.

The motion by Senator Rasmussen carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6468 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6468, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6468, 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, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Zarelli - 46

Voting nay: Senators Oemig and Weinstein - 2

Excused: Senator Regala - 1

SECOND SUBSTITUTE SENATE BILL NO. 6468, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6510, with the following amendment: 6510-S AMH APP H5873.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that a viable manufacturing industry is critical to providing the state economy with family-wage jobs and improving the quality of life for workers and communities. To perform in the emerging global marketplace, Washington manufacturers must master new technologies, streamline production processes, improve quality assurance, expand environmental compliance, and enhance methods of work organization. Only through innovation and modernization techniques, reflecting the specific needs and capabilities of the individual firms, can Washington manufacturers both compete successfully in the market of the future and pay good living wages.

Most small and midsize manufacturers do not have the resources that will allow them to easily access innovation and modernization technical assistance and the skills training needed to make them globally competitive. Because of the statewide public benefit to be gained from increasing the availability of innovation and modernization services, it is the intent of the legislature to create a new mechanism in a manner that reduces the up-front costs of these services for small and midsize manufacturing firms. It is further the intent of the legislature that Washington state increase its support for the federal manufacturing extension partnership program, to expand the delivery of innovation and modernization services to small and midsize Washington manufacturers, and to leverage federal funding and private resources devoted to such efforts.

The successful implementation of innovation and modernization services will enable a manufacturing firm to reduce costs, increase sales, become more profitable, and ultimately expand job opportunities for Washington citizens. Such growth will result in increased revenue from the state business and occupation taxes paid by manufacturers who have engaged in innovation and modernization services.

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

(1) "Costs of extension services" and "extension service costs" mean the direct costs experienced under a contract with a qualified manufacturing extension partnership affiliate for modernization extension services, including but not limited to amounts in the contract for costs of consulting, instruction, materials, equipment, rental of class space, marketing, and overhead.

(2) "Department" means the department of community, trade, and economic development.

(3) "Director" means the director of the department of community, trade, and economic development.

(4) "Innovation and modernization extension voucher" and "voucher" mean an instrument issued to a successful applicant from the department, verifying that funds from the manufacturing innovation and modernization account will be forwarded to the qualified manufacturing extension partnership affiliate selected by the participant and will cover identified costs of extension services.

(5) "Innovation and modernization extension services" and "service" mean a service funded under this chapter and performed by a qualified manufacturing extension partnership affiliate. The services may include but are not limited to strategic planning, continuous improvement, business development, six sigma, quality improvement, environmental health and safety, lean processes, energy management, innovation and product development, human resources and training, supply chain management, and project management.

(6) "Outreach services" means those activities performed by an affiliate to either assess the technical assistance needs of Washington manufacturers or increase manufacturers' awareness of the opportunities and benefits of implementing cutting edge technology, techniques, and best practices. "Outreach services" includes but is not limited to salaries of outreach staff, needs assessments, client follow-up, public educational events, manufacturing orientated trade shows, electronic communications, newsletters, advertising, direct mail efforts, and contacting business organizations for names of manufacturers who might need assistance.

(7) "Program" means the Washington manufacturing innovation and modernization extension service program created in section 3 of this act.

(8) "Program participant" and "participant" mean an applicant for assistance under the program that has received a voucher or a small manufacturer receiving services through an industry association or cluster association that has received a voucher.

(9) "Qualified manufacturing extension partnership affiliate" and "affiliate" mean a private nonprofit organization established under RCW 24.50.010 or other organization that is eligible or certified to receive federal matching funds from the national institute of standards and technology manufacturing extension partnership program of the United States department of commerce.

(10) "Small manufacturer" means a private employer whose primary business is adding value to a product through a manufacturing process and employs one hundred or fewer employees within Washington state.

NEW SECTION. **Sec. 3.** (1) The Washington manufacturing innovation and modernization extension service program is created to provide assistance to small manufacturers located in the state of Washington. The program shall be administered by the department.

(2)(a) Application to receive assistance under this program must be made to the department in a form and manner specified by the department. Successful applicants will receive an innovation and modernization extension voucher from the department to cover the costs of extension services performed by a qualified manufacturing extension partnership affiliate. An applicant may not receive a voucher or vouchers of over two hundred thousand dollars per calendar year. The department shall only allocate up to sixty percent of available funding during the first year of a biennium.

(b) Applicants must:

(i) Have a valid agreement with a qualified manufacturing extension partnership affiliate to engage in innovation and modernization extension services;

(ii) Agree to: (A) Make a contribution to the manufacturing innovation and modernization account created in section 5 of this act, in an amount equal to twenty-five percent of the amount of the innovation and modernization extension voucher, upon completion of the innovation and modernization extension service; and (B) make monthly or quarterly contributions over the subsequent eighteen months, as specified in their agreement with the affiliate, to the manufacturing innovation and modernization account created in section 5 of this act in an amount equal to eighty percent of the amount of the innovation and modernization extension voucher;

(iii) Be a small manufacturer or an industry association or cluster association at the time the applicant entered into an

agreement with a qualified manufacturing extension partnership affiliate; and

(iv) If a small manufacturer, ensure that the number of employees the applicant has in the state during the calendar year following the completion of the program will be equal to or greater than the number of employees the applicant had in the state in the calendar year preceding the start of the program.

(3) The director may solicit and receive gifts, grants, funds, fees, and endowments, in trust or otherwise, from tribal, local, federal, or other governmental entities, as well as private sources, for the purpose of providing funding for the innovation and modernization extension services and outreach services specified in this chapter. All revenue solicited and received by the department pursuant to this subsection must be deposited into the manufacturing innovation and modernization account created in section 5 of this act.

(4) The department may adopt rules to implement this section.

(5) Any qualified manufacturing extension partnership affiliate receiving funding under this program is required to submit a copy of its annual independent federal audit to the department within three months of its issuance.

NEW SECTION. **Sec. 4.** This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purposes. Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special law, or parts thereof, the provisions of this chapter shall be controlling.

NEW SECTION. **Sec. 5.** (1) The manufacturing innovation and modernization account is created in the state treasury. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may be used only for funding activities of the Washington manufacturing innovation and modernization extension services program created in section 3 of this act.

(3) All payments by a program participant in the Washington manufacturing innovation and modernization extension services program created in section 3 of this act shall be deposited into the manufacturing innovation and modernization account. Of the total payments deposited into the account by program participants, the department may use up to three percent for administration of this program. The deposit of payments under this section from a program participant cease when the department specifies that the program participant has met the monetary contribution obligations of the program.

(4) All revenue solicited and received under the provisions of section 3(3) of this act shall be deposited into the manufacturing innovation and modernization account.

(5) The legislature intends that all payments from the manufacturing innovation and modernization account made to qualified manufacturing extension partnership affiliates will be eligible as the state match in an affiliate's application for federal matching funds under the manufacturing extension partnership program of the United States department of commerce's national institute of standards and technology.

NEW SECTION. **Sec. 6.** Any qualified manufacturing extension partnership affiliate receiving funding under the program shall collect and submit to the department annually data on the number of clients served, the scope of services provided, and outcomes achieved during the previous calendar year. The department must evaluate the data submitted and use it in a biennial report on the program submitted to the appropriate committees of the legislature.

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.131 RCW to read as follows:

The Washington manufacturing innovation and modernization extension service program under chapter 43.--- RCW (created in section 10 of this act) shall be terminated June 30, 2012, as provided in section 8 of this act.

NEW SECTION. **Sec. 8.** A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2013:

(1) Section 1 of this act;
(2) Section 2 of this act;
(3) Section 3 of this act;
(4) Section 4 of this act;
(5) Section 5 of this act; and
(6) Section 6 of this act.

NEW SECTION. **Sec. 9.** 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. 10.** Sections 1 through 6 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 11.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6510.

Senator Kastama spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6510.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6510 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6510, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6510, 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, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE SENATE BILL NO. 6510, 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

At 4:59 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Tuesday, March 11, 2008.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate