

FIFTY EIGHTH DAY

MORNING SESSION

Senate Chamber, Olympia, Tuesday, March 9, 2010

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Fairley, Holmquist, McCaslin, Oemig and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Caroline Palmer and Gregory Petschl, presented the Colors. Mr. Adam Cooper, Legislative Assistant to Senator Kohl-Welles 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

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

REPORTS OF STANDING COMMITTEES

March 8, 2010

SB 6364 Prime Sponsor, Senator Fraser: Concerning the capital budget. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6364 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Hewitt; Honeyford; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

SB 6518 Prime Sponsor, Senator Oemig: Changing school levy provisions. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6518 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Hewitt and Honeyford.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

SB 6675 Prime Sponsor, Senator Murray: Creating the Washington global health technologies and product development competitiveness program and allowing certain tax credits for program contributions. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6675 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Parlette; Pridemore; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

SB 6712 Prime Sponsor, Senator Hobbs: Extending expiring tax incentives for certain clean alternative fuel vehicles, producers of certain biofuels, and federal aviation regulation part 145 certificated repair stations. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6712 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

SB 6789 Prime Sponsor, Senator Prentice: Concerning sales and use tax exemptions for certain equipment and infrastructure contained in data centers. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6789 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Hewitt; Hobbs; Honeyford; Keiser; McDermott; Murray; Parlette; Pridemore and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senators Fraser, Vice Chair, Capital Budget Chair and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Fairley.

Passed to Committee on Rules for second reading.

March 8, 2010

SB 6855 Prime Sponsor, Senator McDermott: Exempting community centers from property taxation and imposing leasehold excise taxes on such property. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Honeyford; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

SB 6872 Prime Sponsor, Senator Keiser: Concerning medicaid nursing facility payments. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6872 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senator Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Honeyford; Parlette and Pflug.

Passed to Committee on Rules for second reading.

March 8, 2010

SB 6881 Prime Sponsor, Senator Fraser: Concerning a new surcharge on certain recorded documents for preservation of local archive documents and the Washington state heritage center. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6881 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Fairley; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Hewitt and Parlette.

Passed to Committee on Rules for second reading.

March 8, 2010

HB 2567 Prime Sponsor, Representative Carlyle: Concerning the excise taxation of publicly owned facilities accredited by the association of zoos and aquariums. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hewitt; Hobbs; Keiser;

Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senator Honeyford.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

2SHB 2782 Prime Sponsor, Committee on Ways & Means: Concerning the security lifeline act. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Honeyford and Pflug.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Hewitt; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

EHB 2969 Prime Sponsor, Representative Hudgins: Promoting efficiencies in the services provided by the office of the public printer. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

ESHB 3178 Prime Sponsor, Committee on Ways & Means: Creating efficiencies in the use of technology in state government. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hewitt; Hobbs; Honeyford; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Rockefeller and Schoesler.

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.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

MOTION

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

MESSAGE FROM THE HOUSE

March 8, 2010

MR. PRESIDENT:

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

- SECOND SUBSTITUTE HOUSE BILL 1761,
 - SUBSTITUTE HOUSE BILL 2179,
 - HOUSE BILL 2681,
 - SECOND SUBSTITUTE HOUSE BILL 2867,
 - ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2961,
 - SUBSTITUTE HOUSE BILL 3016,
 - ENGROSSED SECOND SUBSTITUTE HOUSE BILL 3026,
 - SUBSTITUTE HOUSE BILL 3105
- and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 8, 2010

MR. PRESIDENT:

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

- HOUSE BILL 1880,
 - SUBSTITUTE HOUSE BILL 2534,
 - HOUSE BILL 2625,
 - SUBSTITUTE HOUSE BILL 2680,
 - SUBSTITUTE HOUSE BILL 2717,
 - SUBSTITUTE HOUSE BILL 2939,
 - ENGROSSED SUBSTITUTE HOUSE JOINT RESOLUTION 4220
- and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

MOTION

Senator Kohl-Welles moved adoption of the following resolution:

SENATE RESOLUTION
8715

By Senators Kohl-Welles, Jacobsen, Kline, Keiser, Stevens, Kauffman, Franklin, Fraser, Prentice, Tom, Gordon, Regala, Fairley, Parlette, Brandland, Roach, King, Carrell, Schoesler, and Pflug

WHEREAS, Participation in athletics is one of the most effective ways for girls and women in the United States to develop leadership skills, discipline, initiative, and self-confidence; and

WHEREAS, Sport and fitness activities contribute to girls' and women's emotional and physical well-being; and

WHEREAS, The communication, competition, and cooperation skills learned through athletic experience play a key role in the contributions of athletes to the home, workplace, and society; and

WHEREAS, Early motor skills training and enjoyable experiences of physical activity strongly encourage enduring habits of physical fitness; and

WHEREAS, By a 3 to 1 ratio, female athletes do better in school, do not drop out, and have a better chance to get through college than their peers who do not play sports; and

WHEREAS, Female athletes are more likely to graduate from high school, have higher grades, and score higher on standardized tests than nonathletes; and

WHEREAS, Female athletes are more likely to do well in science classes than their classmates who do not play sports; and

WHEREAS, Female athletes are less likely to smoke cigarettes and use drugs than their nonathletic peers; and

WHEREAS, Adolescent female athletes have lower rates of both sexual activity and pregnancy; and

WHEREAS, Sports participation decreases a young woman's chance of developing heart disease, osteoporosis, and other health-related problems; and

WHEREAS, Female athletes are less likely to be at risk of developing breast cancer; and

WHEREAS, High school female athletes are more likely to experience higher levels of self-esteem and are less likely to suffer from depression; and

WHEREAS, The bonds built among girls and women through athletics help to break down the social barriers of prejudice and discrimination; and

WHEREAS, The National Girls and Women in Sports Coalition, established in 1987, declared February 3, 2010, to be National Girls and Women in Sports Day; and

WHEREAS, High school girls' athletic teams in the state of Washington have achieved many accomplishments that serve as an inspiration to young women to promote the values of teamwork and cooperation; and

WHEREAS, Washington high schools foster outstanding achievements in girls' and women's sports, such as volleyball, soccer, softball, golf, and basketball. These include state volleyball champions: Mead, Bishop Blanchet, Pullman, King's, Colfax, and St. John-Endicott; state soccer champions: Skyline, Columbia River, Archbishop Murphy, Seattle Academy, Orcas Island, and Tacoma Baptist; state softball champions: Kelso, Bainbridge Island, Burlington-Edison, Montesano, Adna, and Colton; state golf champions: Lewis & Clark, Holy Names, Bellingham, Royal, and Life Christian; and state basketball champions: Kentwood, Kennedy, Lynden, Seattle Christian, Colfax, and Colton; and

WHEREAS, The University of Washington Women's Softball Team swept the University of Florida Gators in two games to win the National Championship in 2009; and

WHEREAS, University of Washington's own Danielle Lawrie, who pitched both games, was named U.S.A. Softball Collegiate Player of the Year, Women's College World Series Most Outstanding Player, and Pac-10 Pitcher of the Year; and

WHEREAS, The successes and achievements of University of Washington Volleyball players Tamari Miyashiro and Jill Collymore have qualified them to train with the U.S. National Team; and

WHEREAS, University of Washington's Katie Follett won her second straight Pac-10 1,500 meter title in cross-country, making her the first UW woman to repeat as a Pac-10 Champion and the

second UW woman ever to earn three All-American honors in cross-country; and

WHEREAS, Jamey Gelhar, of Saint Martin's University, made 78 consecutive free-throws in the 2009 season, setting an all-time NCAA women's record, and ultimately making 94 out of 97 free-throws, setting an all-time NCAA all-division single season record; and

WHEREAS, St. Martin's Women's Basketball Team placed second among all Division II schools on the 2009 Academic Top 25 Team Honor Roll by Women's Basketball Coaches Association; and

WHEREAS, Soccer player Corina Gabbert achieved Whitman's most prolific single-season scoring performance in more than two decades with 19 goals and six assists in 17 games; and

WHEREAS, Basketball player Heather Bowman became the West Coast Conference and Gonzaga University's all-time leading scorer; and

WHEREAS, Gonzaga University basketball player Courtney Vandersloot reached the 1,000 point milestone in the 2009 season; and

WHEREAS, Gonzaga University's Women's Rowing Team achieved the first sweep in the school's history at the 2009 Championships; and

WHEREAS, Seattle University's Softball Team won the 2009 National Independent Tournament; and

WHEREAS, Distance runner Jessica Pixler, of Seattle Pacific University, collected her sixth, seventh, eighth, and ninth NCAA Division II championship titles, becoming the first woman at the Division II level to accomplish three straight national championships; and

WHEREAS, Whitworth University ran to its highest women's cross-country finish ever at the NCAA Division III Championships; and

WHEREAS, Western Washington University Women's Rowing Team won their 5th consecutive NCAA Division II national title; and

WHEREAS, Everett Community College's Softball Team made their sixth consecutive appearance at the NWAACC Championship Tournament; and

WHEREAS, Everett Community College's Cross-Country Team won the NWAACC 2009 championship; and

WHEREAS, Olympia's own Women's Roller Derby Team, the Oly Rollers, won the 2009 Women's Flat Track Derby Association championship at the end of an undefeated season; and

WHEREAS, Washington is honored to host the Seattle Storm, the only women's professional basketball team in the Northwest and the first major professional sports team in Seattle to bring home a championship in more than 25 years; and

WHEREAS, Seattle Storm team members Sue Bird, Swin Cash, and Lauren Jackson were voted by fans as starters for the Western Conference at the 2009 All-Star Game; and

WHEREAS, Washington State is proud to have participants at the 2010 Winter Olympic Games in Vancouver, Canada, including Nicole Joraanstad, curler from Kent, Holly Brooks, skier from Seattle, and Karen Thatcher, hockey player from Blaine; and

WHEREAS, These women and many more not mentioned here are sterling examples of what is possible through equal parts of hard work, focus, and determination;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor Washington girls and women in sports on March 9, 2010, and encourage others to observe the day with appropriate ceremonies and activities; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Washington State Senate and all of the aforementioned athletes and their respective institutions.

Senators Kohl-Welles, Benton and Roach spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8715.

The motion by Senator Kohl-Welles carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced representatives of women and girls involved in sports including the Oly Rollers of Olympia, the Women's Flat Track Derby Association's 2009 National Champions. The President also recognized Staff Counsel to the Senate Democratic Caucus Heather Lewis-Lechner, aka "Connie Pinko," a member of the 2009 flat track championship team.

MOTION

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

SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9260, Ted Sturdevant, as Director of the Department of Ecology, be confirmed.

Senator Rockefeller spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senators Holmquist, McCaslin and Zarelli were excused.

MOTION

On motion of Senator Marr, Senators Brown and Fairley were excused.

APPOINTMENT OF TED STURDEVANT

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9260, Ted Sturdevant as Director of the Department of Ecology.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9260, Ted Sturdevant as Director of the Department of Ecology and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

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

Absent: Senator Oemig

Excused: Senators Fairley, Holmquist, McCaslin and Zarelli
Gubernatorial Appointment No. 9260, Ted Sturdevant, having received the constitutional majority was declared confirmed as Director of the Department of Ecology.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kilmer moved that Gubernatorial Appointment No. 9272, Patricia Lantz, as a member of the Parks and Recreation Commission, be confirmed.

Senator Kilmer spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senator Oemig was excused.

APPOINTMENT OF PATRICIA LANTZ

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9272, Patricia Lantz as a member of the Parks and Recreation Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9272, Patricia Lantz as a member of the Parks and Recreation Commission and the appointment was confirmed by the following vote: Yeas, 43; Nays, 1; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Stevens, Swecker and Tom

Voting nay: Senator Schoesler

Excused: Senators Fairley, Holmquist, McCaslin, Oemig and Zarelli

Gubernatorial Appointment No. 9272, Patricia Lantz, having received the constitutional majority was declared confirmed as a member of the Parks and Recreation Commission.

MOTION

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

MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6548 with the following amendment(s): 6548-S AMH KELL MERE 166 ,

On page 2, line 35, after "**Sec. 2.**" strike "This" and insert "Section 1 of this"

On page 3, line 1, after "date of" insert "section 1 of"

On page 3, after line 2, insert the following:

"**NEW SECTION. Sec. 3.** The legislature has determined that it is necessary to examine patterns related to the exchange of out-of-state offenders needing supervision. The examination must assess the past action and behavior of other states that send offenders to the state of Washington for supervision to assure that the interstate compact for adult offender supervision operates to protect the safety of the people and communities of Washington and other individual states.

NEW SECTION. Sec. 4. A new section is added to chapter 9.94A RCW to read as follows:

(1) The department shall identify the states from which it receives adult offenders who need supervision and examine the feasibility and cost of establishing memoranda of understanding with the states that send the highest number of offenders for supervision to Washington state with the goal of achieving more balanced and equitable obligations under the interstate compact for adult offender supervision.

(2) At the next meeting of the interstate compact commission, Washington's representatives on the commission shall seek a resolution by the commission regarding:

(a) Any inequitable distribution of costs, benefits, and obligations affecting Washington under the interstate compact; and

(b) The scope of the mandatory acceptance policy and the authority of the receiving state to determine when it is no longer able to supervise an offender.

(3) The department shall examine the feasibility and cost of withdrawal from the interstate compact for adult offender supervision.

(4) The department shall report to the legislature no later than December 1, 2010, regarding:

(a) The development of memoranda of understanding with states that send the highest numbers of offenders to Washington state for supervision;

(b) The outcome of the resolution process with the interstate commission; and

(c) The feasibility and cost of withdrawal from the interstate compact for adult offender supervision.

NEW SECTION. Sec. 5. RCW 9.94A.745 (Interstate compact for adult offender supervision) and 2001 c 35 s 2 are each repealed.

NEW SECTION. Sec. 6. Sections 3 and 4 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect June 1, 2010.

NEW SECTION. Sec. 7. Section 5 of this act takes effect July 1, 2011."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6548 and ask the House to recede therefrom.

Senators Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6548 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6548 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6485 with the following amendment(s): 6485-S AMH CONW ELGE 176 ,

On page 3, line 35, after "spirits" strike "distilled" 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. 6485.

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. 6485.

The motion by Senator Marr carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6485 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6485, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6485, 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 Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Hargrove, Haugen and Kauffman

Excused: Senators Fairley, McCaslin and Oemig

SUBSTITUTE SENATE BILL NO. 6485, 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 3, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6349 with the following amendment(s): 6349-S AMH ENGR H5570.E , Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 49.12 RCW to read as follows:

(1) The director shall establish a farm internship pilot project until December 1, 2011, for the employment of farm interns on small farms under special certificates at wages, if any, as authorized by the department and subject to such limitations as to time, number, proportion, and length of service as provided in this section and as prescribed by the department. The pilot project shall consist of two counties, one a county consisting entirely of islands with fewer than fifty thousand residents and one a county that is bordered by the crest of the Cascade mountain range and salt waters with fewer than one hundred fifty thousand residents.

(2) A small farm may employ no more than three interns per year under this section.

(3) A small farm must apply for a special certificate on a form made available by the director. The application must set forth: The name of the farm and a description of the farm seeking the certificate; the type of work to be performed by a farm intern; a

description of the internship program; the period of time for which the certificate is sought and the duration of an internship; the number of farm interns for which a special certificate is sought; the wages, if any, that will be paid to the farm intern; any room and board, stipends, and other remuneration the farm will provide to a farm intern; and the total number of workers employed by the farm.

(4) Upon receipt of an application, the department shall review the application and issue a special certificate to the requesting farm within fifteen days if the department finds that:

(a) The farm qualifies as a small farm;

(b) There have been no serious violations of chapter 49.46 RCW or Title 51 RCW that provide reasonable grounds to believe that the terms of an internship agreement may not be complied with;

(c) The issuance of a certificate will not create unfair competitive labor cost advantages nor have the effect of impairing or depressing wage or working standards established for experienced workers for work of a like or comparable character in the industry or occupation at which the intern is to be employed;

(d) A farm intern will not displace an experienced worker; and

(e) The farm demonstrates that the interns will perform work for the farm under an internship program that: (i) Provides a curriculum of learning modules and supervised participation in farm work activities designed to teach farm interns about farming practices and farm enterprises; (ii) is based on the bona fide curriculum of an educational or vocational institution; and (iii) is reasonably designed to provide the intern with vocational knowledge and skills about farming practices and enterprises. In assessing an internship program, the department may consult with relevant college and university departments and extension programs and state and local government agencies involved in the regulation or development of agriculture.

(5) A special certificate issued under this section must specify the terms and conditions under which it is issued, including: The name of the farm; the duration of the special certificate allowing the employment of farm interns and the duration of an internship; the total number of interns authorized under the special certificate; the authorized wage rate, if any; and any room and board, stipends, and other remuneration the farm will provide to the farm intern. A farm worker may be paid at wages specified in the certificate only during the effective period of the certificate and for the duration of the internship.

(6) If the department denies an application for a special certificate, notice of denial must be mailed to the farm. The farm listed on the application may, within fifteen days after notice of such action has been mailed, file with the director a petition for review of the denial, setting forth grounds for seeking such a review. If reasonable grounds exist, the director or the director's authorized representative may grant such a review and, to the extent deemed appropriate, afford all interested persons an opportunity to be heard on such review.

(7) Before employing a farm intern, a farm must submit a statement on a form made available by the director stating that the farm understands: The requirements of the industrial welfare act, chapter 49.12 RCW, that apply to farm interns; that the farm must pay workers' compensation premiums in the assigned intern risk class and must pay workers' compensation premiums for nonintern work hours in the applicable risk class; and that if the farm does not comply with subsection (8) of this section, the director may revoke the special certificate.

(8) The director may revoke a special certificate issued under this section if a farm fails to: Comply with the requirements of the industrial welfare act, chapter 49.12 RCW, that apply to farm interns; pay workers' compensation premiums in the assigned intern risk class; or pay workers' compensation premiums in the applicable risk class for nonintern work hours.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

(9) Before the start of a farm internship, the farm and the intern must sign a written agreement and send a copy of the agreement to the department. The written agreement must, at a minimum:

(a) Describe the internship program offered by the farm, including the skills and objectives the program is designed to teach and the manner in which those skills and objectives will be taught;

(b) Explicitly state that the intern is not entitled to minimum wages for work and activities conducted pursuant to the internship program for the duration of the internship;

(c) Describe the responsibilities, expectations, and obligations of the intern and the farm, including the anticipated number of hours of farm activities to be performed by the intern per week;

(d) Describe the activities of the farm and the type of work to be performed by the farm intern; and

(e) Describes any wages, room and board, stipends, and other remuneration the farm will provide to the farm intern.

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

(a) "Farm intern" means an individual who provides services to a small farm under a written agreement and primarily as a means of learning about farming practices and farm enterprises.

(b) "Farm internship program" means an internship program described under subsection (4)(e) of this section.

(c) "Small farm" means a farm:

(i) Organized as a sole proprietorship, partnership, or corporation;

(ii) That reports on the applicant's schedule F of form 1040 or other applicable form filed with the United States internal revenue service annual sales less than two hundred fifty thousand dollars; and

(iii) Where all the owners or partners of the farm provide regular labor to and participate in the management of the farm, and own or lease the productive assets of the farm.

(11) The department shall monitor and evaluate the farm internships authorized by this section and report to the appropriate committees of the legislature by December 31, 2011. The report shall include, but not be limited to: The number of small farms that applied for and received special certificates; the number of interns employed as farm interns; the nature of the educational activities provided to the farm interns; the wages and other remuneration paid to farm interns; the number of and type of workers' compensation claims for farm interns; the employment of farm interns following farm internships; and other matters relevant to assessing farm internships authorized in this section.

Sec. 2. RCW 49.46.010 and 2002 c 354 s 231 are each amended to read as follows:

As used in this chapter:

(1) "Director" means the director of labor and industries;

(2) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the director;

(3) "Employ" includes to permit to work;

(4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual (i) employed as a hand harvest laborer and paid on a piece rate basis in an operation which has been, and is generally and customarily recognized as having been, paid on a piece rate basis in the region of employment; (ii) who commutes daily from his or her permanent residence to the farm on which he or

she is employed; and (iii) who has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(b) Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesman as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the director of personnel pursuant to chapter 41.06 RCW for employees employed under the director of personnel's jurisdiction;

(d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency, or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously. If the individual receives reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or qualification in any state, local government or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor or carrier;

(g) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he or she reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of his or her work time subject to call, and not engaged in the performance of active duties;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the department of transportation;

(n) Any individual employed as a seaman on a vessel other than an American vessel;

(o) Any farm intern providing his or her services to a small farm which has a special certificate issued under section 1 of this act;

(6) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed;

(7) "Retail or service establishment" means an establishment seventy-five percent of whose annual dollar volume of sales of

goods or services, or both, is not for resale and is recognized as retail sales or services in the particular industry.

NEW SECTION. Sec. 3. A new section is added to chapter 51.16 RCW to read as follows:

The department shall adopt rules to provide special workers' compensation risk class or classes for farm interns providing agricultural labor pursuant to a farm internship program. The rules must include any requirements for obtaining a special risk class that must be met by small farms.

NEW SECTION. Sec. 4. A new section is added to chapter 50.04 RCW to read as follows:

(1) The term "employment" shall not include service performed in agricultural labor by a farm intern providing his or her services under a farm internship program as established in section 1 of this act.

(2) For purposes of this section, "agricultural labor" means:

(a) Services performed on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment;

(b) Services performed in packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations. The exclusions from the term "employment" provided in this subsection (2)(b) shall not be deemed to be applicable with respect to commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing or with respect to services performed in connection with the cultivation, raising, harvesting and processing of oysters or raising and harvesting of mushrooms; or

(c) Direct local sales of any agricultural or horticultural commodity after its delivery to a terminal market for distribution or consumption.

NEW SECTION. Sec. 5. Appropriations made for purposes of this act must be from the state general fund.

NEW SECTION. Sec. 6. This act expires December 31, 2011."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Ranker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6349.

Senator Ranker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Ranker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6349.

The motion by Senator Ranker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6349 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6349, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6349, 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 Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Brown and Pridemore

Excused: Senators Fairley, McCaslin and Oemig

SUBSTITUTE SENATE BILL NO. 6349, 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 3, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6403 with the following amendment(s): 6403-S.E AMH ED H5194.2 ,

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that by preventing one high school student from dropping out the annual savings is approximately ten thousand five hundred dollars, including lost state and local taxes and savings to the temporary assistance to needy families program, food stamps, housing assistance, the criminal justice system, and the health care system.

(2) The legislature further finds that school districts need both accountability and technical assistance to improve high school graduation rates.

(3) The legislature further finds that many vulnerable students fail to graduate from high school without adequate dropout prevention, intervention, and reengagement systems at the school district level.

(4) The legislature further finds that school districts need the support of families, agencies, and organizations in the local community to prevent dropouts. In order to significantly improve statewide high school graduation rates, it is the intent of the legislature to facilitate the development of a collaborative infrastructure at the local, regional, and state level between systems that serve vulnerable youth.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.175 RCW to read as follows:

The definitions in this section apply throughout sections 3 and 4 of this act unless the context clearly requires otherwise.

(1) "Critical community members" means representatives in the local community from among the following agencies and organizations: Student/parent organizations, parents and families, local government, law enforcement, juvenile corrections, any tribal organization in the local school district, the local health district, nonprofit and social service organizations serving youth, and faith organizations.

(2) "Dropout early warning and intervention data system" means a student information system that provides the data needed to conduct a universal screening to identify students at risk of dropping out, catalog student interventions, and monitor student progress towards graduation.

FIFTY EIGHTH DAY, MARCH 9, 2010

(3) "K-12 dropout prevention, intervention, and reengagement system" means a system that provides all of the following functions:

(a) Engaging in school improvement planning specifically focused on improving high school graduation rates, including goal-setting and action planning, based on a comprehensive assessment of strengths and challenges;

(b) Providing prevention activities including, but not limited to, emotionally and physically safe school environments, implementation of a comprehensive guidance and counseling model facilitated by certified school counselors, core academic instruction, and career and technical education exploratory and preparatory programs;

(c) Identifying vulnerable students based on a dropout early warning and intervention data system;

(d) Timely academic and nonacademic group and individual interventions for vulnerable students based on a response to intervention model, including planning and sharing of information at critical academic transitions;

(e) Providing graduation coaches, mentors, certified school counselors, and/or case managers for vulnerable students identified as needing a more intensive one-on-one adult relationship;

(f) Establishing and providing staff to coordinate a school/family/community partnership that assists in building a K-12 dropout prevention, intervention, and reengagement system;

(g) Providing retrieval or reentry activities; and

(h) Providing alternative educational programming including, but not limited to, credit retrieval and online learning opportunities.

(4) "School/family/community partnership" means a partnership between a school or schools, families, and the community, that engages critical community members in a formal, structured partnership with local school districts in a coordinated effort to provide comprehensive support services and improve outcomes for vulnerable youth.

(5) "Vulnerable students" means students who are in foster care, involved in the juvenile justice system, receiving special education services under chapter 28A.155 RCW, recent immigrants, homeless, emotionally traumatized, or are facing behavioral health issues, and students deemed at-risk of school failure as identified by a dropout early warning data system or other assessment.

NEW SECTION. Sec. 3. By September 15, 2010, the office of the superintendent of public instruction, in collaboration with the work group established in RCW 28A.175.075, shall develop and report recommendations to the quality education council and the legislature for the development of a comprehensive, K-12 dropout reduction initiative designed to integrate multiple tiers of dropout prevention, intervention, and technical assistance provided through federal and state programs and to support a K-12 dropout prevention, intervention, and reengagement system as defined in section 2 of this act.

Sec. 4. RCW 28A.175.075 and 2007 c 408 s 7 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall establish a state-level building bridges work group that includes K-12 and state agencies that work with youth who have dropped out or are at risk of dropping out of school. The following agencies shall appoint representatives to the work group: The office of the superintendent of public instruction, the workforce training and education coordinating board, the department of early learning, the employment security department, the state board for community and technical colleges, the department of health, the community mobilization office, and the children's services and behavioral health and recovery divisions of the department of social and health services. The ~~((state-level leadership))~~ work group ~~((shall))~~ should also consist of one representative from each of the following agencies and organizations: ~~((The workforce training and~~

2010 REGULAR SESSION

~~education coordinating board;))~~ A statewide organization representing career and technical education programs including skill centers; ((relevant divisions of the department of social and health services;)) the juvenile courts or the office of juvenile justice, or both; the Washington association of prosecuting attorneys; the Washington state office of public defense; ((the employment security department;)) accredited institutions of higher education; the educational service districts; the area workforce development councils; parent and educator associations; ((the department of health)) achievement gap oversight and accountability committee; office of the education ombudsman; local school districts; agencies or organizations that provide services to special education students; community organizations serving youth; federally recognized tribes and urban tribal centers; each of the major political caucuses of the senate and house of representatives; and the minority commissions.

(2) To assist and enhance the work of the building bridges programs established in RCW ~~((28A.175.055))~~ 28A.175.025, the state-level work group shall:

(a) Identify and make recommendations to the legislature for the reduction of fiscal, legal, and regulatory barriers that prevent coordination of program resources across agencies at the state and local level;

(b) Develop and track performance measures and benchmarks for each partner agency or organization across the state including performance measures and benchmarks based on student characteristics and outcomes specified in RCW 28A.175.035(1)(e); and

(c) Identify research-based and emerging best practices regarding prevention, intervention, and retrieval programs.

(3)(a) The work group shall report to the quality education council, appropriate committees of the legislature, and the governor on an annual basis beginning December 1, 2007, with proposed strategies for building K-12 dropout prevention, intervention, and reengagement systems in local communities throughout the state including, but not limited to, recommendations for implementing emerging best practices, needed additional resources, and eliminating barriers.

(b) By September 15, 2010, the work group shall report on:

(i) A recommended state goal and annual state targets for the percentage of students graduating from high school;

(ii) A recommended state goal and annual state targets for the percentage of youth who have dropped out of school who should be reengaged in education and be college and work ready;

(iii) Recommended funding for supporting career guidance and the planning and implementation of K-12 dropout prevention, intervention, and reengagement systems in school districts and a plan for phasing the funding into the program of basic education, beginning in the 2011- 2013 biennium; and

(iv) A plan for phasing in the expansion of the current school improvement planning program to include state-funded, dropout-focused school improvement technical assistance for school districts in significant need of improvement regarding high school graduation rates.

(4) State agencies in the building bridges work group shall work together, wherever feasible, on the following activities to support school/family/community partnerships engaged in building K-12 dropout prevention, intervention, and reengagement systems:

(a) Providing opportunities for coordination and flexibility of program eligibility and funding criteria;

(b) Providing joint funding;

(c) Developing protocols and templates for model agreements on sharing records and data;

(d) Providing joint professional development opportunities that provide knowledge and training on:

(i) Research-based and promising practices;

(ii) The availability of programs and services for vulnerable youth; and

(iii) Cultural competence.

(5) The building bridges work group shall make recommendations to the governor and the legislature by December 1, 2010, on a state-level and regional infrastructure for coordinating services for vulnerable youth. Recommendations must address the following issues:

(a) Whether to adopt an official conceptual approach or framework for all entities working with vulnerable youth that can support coordinated planning and evaluation;

(b) The creation of a performance-based management system, including outcomes, indicators, and performance measures relating to vulnerable youth and programs serving them, including accountability for the dropout issue;

(c) The development of regional and/or county-level multipartner youth consortia with a specific charge to assist school districts and local communities in building K-12 comprehensive dropout prevention, intervention, and reengagement systems;

(d) The development of integrated or school-based one-stop shopping for services that would:

(i) Provide individualized attention to the neediest youth and prioritized access to services for students identified by a dropout early warning and intervention data system;

(ii) Establish protocols for coordinating data and services, including getting data release at time of intake and common assessment and referral processes; and

(iii) Build a system of single case managers across agencies;

(e) Launching a statewide media campaign on increasing the high school graduation rate; and

(f) Developing a statewide database of available services for vulnerable youth.

Sec. 5. RCW 28A.175.010 and 2005 c 207 s 3 are each amended to read as follows:

Each school district shall account for the educational progress of each of its students. To achieve this, school districts shall be required to report annually to the superintendent of public instruction:

(1) For students enrolled in each of a school district's high school programs:

(a) The number of students who graduate in fewer than four years;

(b) The number of students who graduate in four years;

(c) The number of students who remain in school for more than four years but who eventually graduate and the number of students who remain in school for more than four years but do not graduate;

(d) The number of students who transfer to other schools;

(e) The number of students in the ninth through twelfth grade who drop out of school over a four-year period; and

(f) The number of students whose status is unknown.

(2) Dropout rates of students in each of the grades seven through twelve.

(3) Dropout rates for student populations in each of the grades seven through twelve by:

(a) Ethnicity;

(b) Gender;

(c) Socioeconomic status; and

(d) Disability status.

(4) The causes or reasons, or both, attributed to students for having dropped out of school in grades seven through twelve.

(5) The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to assure uniformity in the information districts are required to report under subsections (1) through (4) of this section. In developing rules, the superintendent of public instruction shall consult with school districts, including

administrative and counseling personnel, with regard to the methods through which information is to be collected and reported.

(6) In reporting on the causes or reasons, or both, attributed to students for having dropped out of school, school building officials shall, to the extent reasonably practical, obtain such information directly from students. In lieu of obtaining such information directly from students, building principals and counselors shall identify the causes or reasons, or both, based on their professional judgment.

(7) The superintendent of public instruction shall report annually to the legislature the information collected under subsections (1) through (4) of this section.

(8) The Washington state institute for public policy shall calculate an annual estimate of the savings resulting from any change compared to the prior school year in the extended graduation rate. The superintendent shall include the estimate from the institute in an appendix of the report required under subsection (7) of this section, beginning with the 2010 report."

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 Engrossed Substitute Senate Bill No. 6403.

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 Engrossed Substitute Senate Bill No. 6403.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6403 by voice vote.

MOTION

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6403, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6403, 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 Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Oemig

ENGROSSED SUBSTITUTE SENATE BILL NO. 6403, 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.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6468 with the following amendment(s): 6468-S.E AMH SHOR KENB 062

On page 8, line 3, after "frequency." insert "the project costs, and" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kauffman moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6468.

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 Engrossed Substitute Senate Bill No. 6468.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6468 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6468, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6468, 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 Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and McCaslin

ENGROSSED 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 3, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6470 with the following amendment(s): 6470-S AMH PEDE TANG 126

On page 5, beginning on line 25, after "relationship" strike all material through "child" on line 31 and insert "of an Indian child as defined in 25 U.S.C. Sec. 1903, no termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is

likely to result in serious emotional or physical damage to the child" 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. 6470.

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. 6470.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6470 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6470, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6470, 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 Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 6470, 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 3, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6476 with the following amendment(s): 6476-S.E AMH WAYS H5481.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.32A.030 and 2000 c 123 s 2 are each amended to read as follows:

As used in this chapter the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed, excluding conduct permitted under RCW 9A.16.100. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Administrator" means the individual who has the daily administrative responsibility of a crisis residential center, or his or her designee.

(3) "At-risk youth" means a juvenile:

(a) Who is absent from home for at least seventy-two consecutive hours without consent of his or her parent;

(b) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or any other person; or

(c) Who has a substance abuse problem for which there are no pending criminal charges related to the substance abuse.

(4) "Child," "juvenile," and "youth" mean any unemancipated individual who is under the chronological age of eighteen years.

(5) "Child in need of services" means a juvenile:

(a) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or other person;

(b) Who has been reported to law enforcement as absent without consent for at least twenty-four consecutive hours on two or more separate occasions from the home of either parent, a crisis residential center, an out-of-home placement, or a court-ordered placement; and

(i) Has exhibited a serious substance abuse problem; or

(ii) Has exhibited behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person; ~~((e))~~

(c)(i) Who is in need of: (A) Necessary services, including food, shelter, health care, clothing, or education; or (B) services designed to maintain or reunite the family;

(ii) Who lacks access to, or has declined to utilize, these services; and

(iii) Whose parents have evidenced continuing but unsuccessful efforts to maintain the family structure or are unable or unwilling to continue efforts to maintain the family structure; or

(d) Who is a "sexually exploited child".

(6) "Child in need of services petition" means a petition filed in juvenile court by a parent, child, or the department seeking adjudication of placement of the child.

(7) "Crisis residential center" means a secure or semi-secure facility established pursuant to chapter 74.13 RCW.

(8) "Custodian" means the person or entity who has the legal right to the custody of the child.

(9) "Department" means the department of social and health services.

(10) "Extended family member" means an adult who is a grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom the child has a relationship and is comfortable, and who is willing and available to care for the child.

(11) "Guardian" means that person or agency that (a) has been appointed as the guardian of a child in a legal proceeding other than a proceeding under chapter 13.34 RCW, and (b) has the right to legal custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under chapter 13.34 RCW.

(12) "Multidisciplinary team" means a group formed to provide assistance and support to a child who is an at-risk youth or a child in need of services and his or her parent. The team shall include the parent, a department case worker, a local government representative when authorized by the local government, and when appropriate, members from the mental health and substance abuse disciplines. The team may also include, but is not limited to, the following persons: Educators, law enforcement personnel, probation officers, employers, church persons, tribal members, therapists, medical personnel, social service providers, placement providers, and extended family members. The team members shall be volunteers who do not receive compensation while acting in a capacity as a team member, unless the member's employer chooses to provide compensation or the member is a state employee.

(13) "Out-of-home placement" means a placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's

parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(14) "Parent" means the parent or parents who have the legal right to custody of the child. "Parent" includes custodian or guardian.

(15) "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

(16) "Semi-secure facility" means any facility, including but not limited to crisis residential centers or specialized foster family homes, operated in a manner to reasonably assure that youth placed there will not run away. Pursuant to rules established by the department, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents are free to come and go at all hours of the day and night. To prevent residents from taking unreasonable actions, the facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the center.

(17) "Sexually exploited child" means any person under the age of eighteen who is a victim of the crime of commercial sex abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102.

(18) "Staff secure facility" means a structured group care facility licensed under rules adopted by the department with a ratio of at least one adult staff member to every two children.

~~((18))~~ (19) "Temporary out-of-home placement" means an out-of-home placement of not more than fourteen days ordered by the court at a fact-finding hearing on a child in need of services petition.

NEW SECTION. Sec. 2. Section 1 of this act takes effect July 1, 2011.

NEW SECTION. Sec. 3. A new section is added to chapter 13.32A RCW to read as follows:

Within available funding, when a youth who has been diverted under RCW 13.40.070 for an alleged offense of prostitution or prostitution loitering is referred to the department, the department shall connect that child with the services and treatment specified in RCW 74.14B.060 and 74.14B.070.

NEW SECTION. Sec. 4. A new section is added to chapter 13.32A RCW to read as follows:

By November 1, 2010, the department shall report to the relevant policy and fiscal committees of the legislature regarding training needed to allow staff of the children's administration and crisis residential centers to work effectively with sexually exploited youth. The report shall identify the evidence-based training programs to be used and the cost of such training.

NEW SECTION. Sec. 5. A new section is added to chapter 13.40 RCW to read as follows:

Within available funding, when a youth who has been diverted under RCW 13.40.070 for an alleged offense of prostitution or prostitution loitering is referred to the department, the department shall connect that youth with the services and treatment specified in RCW 74.14B.060 and 74.14B.070.

Sec. 6. RCW 7.68.070 and 2009 c 38 s 1 are each amended to read as follows:

The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW except as provided in this section:

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or the victim's family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, subject to the limitations under RCW 7.68.015. The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 are applicable to this chapter.

(3)(a) The limitations contained in RCW 51.32.020 are applicable to claims under this chapter. In addition ~~((there)),~~ no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

~~((a))~~ (i) The result of consent, provocation, or incitement by the victim, unless an injury resulting from a criminal act caused the death of the victim;

~~((b))~~ (ii) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or

~~((c))~~ (iii) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(b) A person identified as the "minor" in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030.

(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter ~~((:—PROVIDED, That)),~~ Benefits for burial expenses shall not exceed the amount paid by the department in case of the death of a worker as provided in chapter 51.32 RCW in any claim ~~((:—PROVIDED FURTHER, That)),~~ If the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;

(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived the victim or where such spouse has legal custody of all of his or her children, shall be limited to burial expenses and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;

(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among such child or children;

(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a lump sum payment of up to three thousand

seven hundred fifty dollars to be divided equally among the child or children;

(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.

No other benefits may be paid or payable under these circumstances.

(5) The benefits established in RCW 51.32.060 for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That if a victim becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter.

(7) The benefits established in RCW 51.32.090 for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter ~~((:—PROVIDED, That)),~~ No person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act, and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act.

(8) The benefits established in RCW 51.32.095 for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter ~~((:—PROVIDED, That)),~~ Benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 are applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) Except for medical benefits authorized under RCW 7.68.080, no more than thirty thousand dollars shall be granted as a result of a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed forty thousand dollars.

(14) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to fifteen thousand dollars.

(15) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

(16) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act, except to the extent that the costs for such services exceed service limits established by the department of social and health services or, during the 1993-95 fiscal biennium, to the extent necessary to provide matching funds for federal medicaid reimbursement.

(17) In addition to other benefits provided under this chapter, immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.

(18) A dependent mother, father, stepmother, or stepfather, as defined in RCW 51.08.050, who is a survivor of her or his child's homicide, who has been requested by a law enforcement agency or a prosecutor to assist in the judicial proceedings related to the death of the victim, and who is not domiciled in Washington state at the time of the request, may receive a lump-sum payment upon arrival in this state. Total benefits under this subsection may not exceed seven thousand five hundred dollars. If more than one dependent parent is eligible for this benefit, the lump-sum payment of seven thousand five hundred dollars shall be divided equally among the dependent parents.

(19) A victim whose crime occurred in another state who qualifies for benefits under RCW 7.68.060(4) may receive appropriate mental health counseling to address distress arising from participation in the civil commitment proceedings. Fees for

counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080.

Sec. 7. RCW 13.40.070 and 2009 c 252 s 3 are each amended to read as follows:

(1) Complaints referred to the juvenile court alleging the commission of an offense shall be referred directly to the prosecutor. The prosecutor, upon receipt of a complaint, shall screen the complaint to determine whether:

(a) The alleged facts bring the case within the jurisdiction of the court; and

(b) On a basis of available evidence there is probable cause to believe that the juvenile did commit the offense.

(2) If the identical alleged acts constitute an offense under both the law of this state and an ordinance of any city or county of this state, state law shall govern the prosecutor's screening and charging decision for both filed and diverted cases.

(3) If the requirements of subsections (1)(a) and (b) of this section are met, the prosecutor shall either file an information in juvenile court or divert the case, as set forth in subsections (5), (6), and ~~((7))~~ (8) of this section. If the prosecutor finds that the requirements of subsection (1)(a) and (b) of this section are not met, the prosecutor shall maintain a record, for one year, of such decision and the reasons therefor. In lieu of filing an information or diverting an offense a prosecutor may file a motion to modify community supervision where such offense constitutes a violation of community supervision.

(4) An information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney and conform to chapter 10.37 RCW.

(5) Except as provided in RCW 13.40.213 and subsection (7) of this section, where a case is legally sufficient, the prosecutor shall file an information with the juvenile court if:

(a) An alleged offender is accused of a class A felony, a class B felony, an attempt to commit a class B felony, a class C felony listed in RCW 9.94A.411(2) as a crime against persons or listed in RCW 9A.46.060 as a crime of harassment, or a class C felony that is a violation of RCW 9.41.080 or 9.41.040(2)(a)(iii); or

(b) An alleged offender is accused of a felony and has a criminal history of any felony, or at least two gross misdemeanors, or at least two misdemeanors; or

(c) An alleged offender has previously been committed to the department; or

(d) An alleged offender has been referred by a diversion unit for prosecution or desires prosecution instead of diversion; or

(e) An alleged offender has two or more diversion agreements on the alleged offender's criminal history; or

(f) A special allegation has been filed that the offender or an accomplice was armed with a firearm when the offense was committed.

(6) Where a case is legally sufficient the prosecutor shall divert the case if the alleged offense is a misdemeanor or gross misdemeanor or violation and the alleged offense is the offender's first offense or violation. If the alleged offender is charged with a related offense that must or may be filed under subsections (5) and ~~((7))~~ (8) of this section, a case under this subsection may also be filed.

(7) Where a case is legally sufficient to charge an alleged offender with either prostitution or prostitution loitering and the alleged offense is the offender's first prostitution or prostitution loitering offense, the prosecutor shall divert the case.

(8) Where a case is legally sufficient and falls into neither subsection (5) nor (6) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor shall be guided only by the length, seriousness, and

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

~~((8))~~ (9) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversion interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile. Where a case involves victims of crimes against persons or victims whose property has not been recovered at the time a juvenile is referred to a diversion unit, the victim shall be notified of the referral and informed how to contact the unit.

~~((9))~~ (10) The responsibilities of the prosecutor under subsections (1) through ~~((8))~~ (9) of this section may be performed by a juvenile court probation counselor for any complaint referred to the court alleging the commission of an offense which would not be a felony if committed by an adult, if the prosecutor has given sufficient written notice to the juvenile court that the prosecutor will not review such complaints.

~~((10))~~ (11) The prosecutor, juvenile court probation counselor, or diversion unit may, in exercising their authority under this section or RCW 13.40.080, refer juveniles to mediation or victim offender reconciliation programs. Such mediation or victim offender reconciliation programs shall be voluntary for victims.

Sec. 8. RCW 13.40.213 and 2009 c 252 s 2 are each amended to read as follows:

(1) When a juvenile is alleged to have committed the offenses of prostitution or prostitution loitering, and the allegation, if proved, would not be the juvenile's first offense, a prosecutor may divert the offense if the county in which the offense is alleged to have been committed has a comprehensive program that provides:

- (a) Safe and stable housing;
- (b) Comprehensive on-site case management;
- (c) Integrated mental health and chemical dependency services, including specialized trauma recovery services;
- (d) Education and employment training delivered on-site; and
- (e) Referrals to off-site specialized services, as appropriate.

(2) A prosecutor may divert a case for prostitution or prostitution loitering into the comprehensive program described in this section, notwithstanding the filing criteria set forth in RCW 13.40.070(5).

(3) A diversion agreement under this section may extend to twelve months.

(4)(a) The administrative office of the courts shall compile data regarding:

- (i) The number of juveniles whose cases are diverted into the comprehensive program described in this section;
- (ii) Whether the juveniles complete their diversion agreements under this section; and
- (iii) Whether juveniles whose cases have been diverted under this section have been subsequently arrested or committed subsequent offenses.

(b) ~~((A))~~ An annual report of the data compiled shall be provided to the governor and the appropriate committee of the legislature. The first report is due by November 1, 2010.

NEW SECTION. Sec. 9. A new section is added to chapter 13.40 RCW to read as follows:

In any proceeding under this chapter related to an arrest for prostitution or prostitution loitering, there is a presumption that the alleged offender meets the criteria for a certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States code, and that the alleged offender is also a victim of commercial sex abuse of a minor.

NEW SECTION. Sec. 10. A new section is added to chapter 74.15 RCW to read as follows:

The department shall require that to be licensed or continue to be licensed as a secure or semi-secure crisis residential center or

HOPE center that the center has on staff, or otherwise has access to, a person who has been trained to work with the needs of sexually exploited children. For purposes of this section, "sexually exploited child" means that person as defined in RCW 13.32A.030(17).

Sec. 11. RCW 9.94A.515 and 2008 c 108 s 23 and 2008 c 38 s 1 are each reenacted and amended to read as follows:

TABLE 2

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	<u>Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)</u>
	Rape 1 (RCW 9A.44.040)
	Rape of a Child 1 (RCW 9A.44.073)
	Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)
	Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083)
	Criminal Mistreatment 1 (RCW 9A.42.020)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
	Kidnapping 1 (RCW 9A.40.020)
	Leading Organized Crime (RCW 9A.82.060(1)(a))
	Malicious explosion 3 (RCW 70.74.280(3))
	Sexually Violent Predator Escape (RCW 9A.76.115)
IX	Abandonment of Dependent Person 1 (RCW 9A.42.060)
	Assault of a Child 2 (RCW 9A.36.130)

- Explosive devices prohibited (RCW 70.74.180)
- Hit and Run--Death (RCW 46.52.020(4)(a))
- Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
- Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- Malicious placement of an explosive 2 (RCW 70.74.270(2))
- Robbery 1 (RCW 9A.56.200)
- Sexual Exploitation (RCW 9.68A.040)
- Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
- Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
- Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
- Manslaughter 2 (RCW 9A.32.070)
- ~~((Promoting Commercial Sexual Abuse— of a Minor (RCW 9.68A.101)))~~
- Promoting Prostitution 1 (RCW 9A.88.070)
- Theft of Ammonia (RCW 69.55.010)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW 9A.48.120)
- Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))
- Introducing Contraband 1 (RCW 9A.76.140)
- Malicious placement of an explosive 3 (RCW 70.74.270(3))
- Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
- Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct (RCW 9.68A.070)
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of Dependent Person 2 (RCW 9A.42.070)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 2 (RCW 9A.42.030)
- Custodial Sexual Misconduct 1 (RCW 9A.44.160)
- Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
- Driving While Under the Influence (RCW 46.61.502(6))
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW 9.94.070)
- Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

Possession of a Stolen Firearm (RCW 9A.56.310)
 Rape 3 (RCW 9A.44.060)
 Rendering Criminal Assistance 1 (RCW 9A.76.070)
 Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
 Sexually Violating Human Remains (RCW 9A.44.105)
 Stalking (RCW 9A.46.110)
 Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
 IV Arson 2 (RCW 9A.48.030)
 Assault 2 (RCW 9A.36.021)
 Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
 Assault by Watercraft (RCW 79A.60.060)
 Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
 Cheating 1 (RCW 9A.46.1961)
 Commercial Bribery (RCW 9A.68.060)
 Counterfeiting (RCW 9A.16.035(4))
 Endangerment with a Controlled Substance (RCW 9A.42.100)
 Escape 1 (RCW 9A.76.110)
 Hit and Run--Injury (RCW 46.52.020(4)(b))
 Hit and Run with Vessel--Injury Accident (RCW 79A.60.200(3))
 Identity Theft 1 (RCW 9A.35.020(2))
 Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
 Influencing Outcome of Sporting Event (RCW 9A.82.070)
 Malicious Harassment (RCW 9A.36.080)
 Residential Burglary (RCW 9A.52.025)
 Robbery 2 (RCW 9A.56.210)
 Theft of Livestock 1 (RCW 9A.56.080)
 Threats to Bomb (RCW 9A.61.160)
 Trafficking in Stolen Property 1 (RCW 9A.82.050)
 Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
 Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))

Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
 Unlawful transaction of insurance business (RCW 48.15.023(3))
 Unlicensed practice as an insurance professional (RCW 48.17.063(((3))) (2))
 Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
 Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
 Willful Failure to Return from Furlough (RCW 72.66.060)
 III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
 Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
 Assault of a Child 3 (RCW 9A.36.140)
 Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
 Burglary 2 (RCW 9A.52.030)
~~((Commercial Sexual Abuse of a Minor (RCW 9.68A.100)))~~
 Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
 Criminal Gang Intimidation (RCW 9A.46.120)
 Custodial Assault (RCW 9A.36.100)
 Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))
 Escape 2 (RCW 9A.76.120)
 Extortion 2 (RCW 9A.56.130)
 Harassment (RCW 9A.46.020)
 Intimidating a Public Servant (RCW 9A.76.180)
 Introducing Contraband 2 (RCW 9A.76.150)
 Malicious Injury to Railroad Property (RCW 81.60.070)
 Mortgage Fraud (RCW 19.144.080)
 Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)
 Organized Retail Theft 1 (RCW 9A.56.350(2))
 Perjury 2 (RCW 9A.72.030)

- Possession of Incendiary Device (RCW 9.40.120)
- Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Retail Theft with Extenuating Circumstances 1 (RCW 9A.56.360(2))
- Securities Act violation (RCW 21.20.400)
- Tampering with a Witness (RCW 9A.72.120)
- Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
- Theft of Livestock 2 (RCW 9A.56.083)
- Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
- Trafficking in Stolen Property 2 (RCW 9A.82.055)
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Computer Trespass 1 (RCW 9A.52.110)
- Counterfeiting (RCW 9.16.035(3))
- Escape from Community Custody (RCW 72.09.310)
- Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130(11)(a))
- Health Care False Claims (RCW 48.80.030)
- Identity Theft 2 (RCW 9.35.020(3))
- Improperly Obtaining Financial Information (RCW 9.35.010)
- Malicious Mischief 1 (RCW 9A.48.070)
- Organized Retail Theft 2 (RCW 9A.56.350(3))
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Possession of a Stolen Vehicle (RCW 9A.56.068)
- Retail Theft with Extenuating Circumstances 2 (RCW 9A.56.360(3))
- Theft 1 (RCW 9A.56.030)
- Theft of a Motor Vehicle (RCW 9A.56.065)
- Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
- Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
- Unlawful Practice of Law (RCW 2.48.180)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Voyeurism (RCW 9A.44.115)
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
- Theft 2 (RCW 9A.56.040)
- Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))
- Transaction of insurance business beyond the scope of licensure (RCW 48.17.063((4)))
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Possession of Fictitious Identification (RCW 9A.56.320)
- Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)
- Unlawful Possession of Payment Instruments (RCW 9A.56.320)
- Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)
- Unlawful Production of Payment Instruments (RCW 9A.56.320)
- Unlawful Trafficking in Food Stamps (RCW 9.91.142)
- Unlawful Use of Food Stamps (RCW 9.91.144)
- Vehicle Prowl 1 (RCW 9A.52.095)
- Sec. 12.** RCW 9A.88.140 and 2009 c 387 s 1 are each amended to read as follows:

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

(1)(a) Upon an arrest for a suspected violation of patronizing a prostitute, promoting prostitution in the first degree, promoting prostitution in the second degree, promoting travel for prostitution (~~commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor~~), the arresting law enforcement officer may impound the person's vehicle if (i) the motor vehicle was used in the commission of the crime; (ii) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465; and (iii) either (A) the person arrested has previously been convicted of one of the offenses listed in this subsection or (B) the offense was committed within an area designated under (b) of this subsection.

(b) A local governing authority may designate areas within which vehicles are subject to impoundment under this section regardless of whether the person arrested has previously been convicted of any of the offenses listed in (a) of this subsection.

(i) The designation must be based on evidence indicating that the area has a disproportionately higher number of arrests for the offenses listed in (a) of this subsection as compared to other areas within the same jurisdiction.

(ii) The local governing authority shall post signs at the boundaries of the designated area to indicate that the area has been designated under this subsection.

(2) Upon an arrest for a suspected violation of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor, the arresting law enforcement officer shall impound the person's vehicle if (a) the motor vehicle was used in the commission of the crime; and (b) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465.

(3) Impoundments performed under this section shall be in accordance with chapter 46.55 RCW and the impoundment order must clearly state "prostitution hold."

~~((3))~~ (4)(a) Prior to redeeming the impounded vehicle, and in addition to all applicable impoundment, towing, and storage fees paid to the towing company under chapter 46.55 RCW, the owner of the impounded vehicle must pay a fine (~~of five hundred dollars~~) to the impounding agency. The fine shall be five hundred dollars for the offenses specified in subsection (1) of this section, or two thousand five hundred dollars for the offenses specified in subsection (2) of this section. The fine shall be deposited in the prostitution prevention and intervention account established under RCW 43.63A.740.

(b) Upon receipt of the fine paid under (a) of this subsection, the impounding agency shall issue a written receipt to the owner of the impounded vehicle.

~~((4))~~ (5)(a) In order to redeem a vehicle impounded under this section, the owner must provide the towing company with the written receipt issued under subsection ~~((3))~~ (4)(b) of this section.

(b) The written receipt issued under subsection ~~((3))~~ (4)(b) of this section authorizes the towing company to release the impounded vehicle upon payment of all impoundment, towing, and storage fees.

(c) A towing company that relies on a forged receipt to release a vehicle impounded under this section is not liable to the impounding authority for any unpaid fine under subsection ~~((3))~~ (4)(a) of this section.

~~((5))~~ (6)(a) In any proceeding under chapter 46.55 RCW to contest the validity of an impoundment under this section where the claimant substantially prevails, the claimant is entitled to a full refund of the impoundment, towing, and storage fees paid under chapter 46.55 RCW and the five hundred dollar fine paid under subsection ~~((3))~~ (4) of this section.

(b) If the person is found not guilty at trial for a crime listed under subsection (1) of this section, the person is entitled to a full

refund of the impoundment, towing, and storage fees paid under chapter 46.55 RCW and the ~~((five hundred dollar))~~ fine paid under subsection ~~((3))~~ (4) of this section.

(c) All refunds made under this section shall be paid by the impounding agency.

(d) Prior to receiving any refund under this section, the claimant must provide proof of payment.

Sec. 13. RCW 9.68A.100 and 2007 c 368 s 2 are each amended to read as follows:

(1) A person is guilty of commercial sexual abuse of a minor if:

(a) He or she pays a fee to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her;

(b) He or she pays or agrees to pay a fee to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or

(c) He or she solicits, offers, or requests to engage in sexual conduct with a minor in return for a fee.

(2) Commercial sexual abuse of a minor is a class ~~((C))~~ B felony punishable under chapter 9A.20 RCW.

(3) In addition to any other penalty provided under chapter 9A.20 RCW, a person guilty of commercial sexual abuse of a minor is subject to the provisions under RCW 9A.88.130 and 9A.88.140.

(4) For purposes of this section, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

Sec. 14. RCW 9.68A.101 and 2007 c 368 s 4 are each amended to read as follows:

(1) A person is guilty of promoting commercial sexual abuse of a minor if he or she knowingly advances commercial sexual abuse of a minor or profits from a minor engaged in sexual conduct.

(2) Promoting commercial sexual abuse of a minor is a class ~~((B))~~ A felony.

(3) For the purposes of this section:

(a) A person "advances commercial sexual abuse of a minor" if, acting other than as a minor receiving compensation for personally rendered sexual conduct or as a person engaged in commercial sexual abuse of a minor, he or she causes or aids a person to commit or engage in commercial sexual abuse of a minor, procures or solicits customers for commercial sexual abuse of a minor, provides persons or premises for the purposes of engaging in commercial sexual abuse of a minor, operates or assists in the operation of a house or enterprise for the purposes of engaging in commercial sexual abuse of a minor, or engages in any other conduct designed to institute, aid, cause, assist, or facilitate an act or enterprise of commercial sexual abuse of a minor.

(b) A person "profits from commercial sexual abuse of a minor" if, acting other than as a minor receiving compensation for personally rendered sexual conduct, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates or will participate in the proceeds of commercial sexual abuse of a minor.

(4) For purposes of this section, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

Sec. 15. RCW 9.68A.105 and 2007 c 368 s 11 are each amended to read as follows:

(1)(a) In addition to penalties set forth in RCW 9.68A.100, 9.68A.101, and 9.68A.102, a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or municipal ordinance shall be assessed a five ~~((hundred fifty))~~ thousand dollar fee.

(b) The court may not suspend payment of all or part of the fee unless it finds that the person does not have the ability to pay.

(c) When a minor has been adjudicated a juvenile offender or has entered into a statutory or nonstatutory diversion agreement for an offense which, if committed by an adult, would constitute a violation of RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or municipal ordinance, the court shall assess the fee under (a) of this subsection. The court may not suspend payment of all or part of the fee unless it finds that the minor does not have the ability to pay the fee.

(2) The fee assessed under subsection (1) of this section shall be collected by the clerk of the court and distributed each month to the state treasurer for deposit in the prostitution prevention and intervention account under RCW 43.63A.740 for the purpose of funding prostitution prevention and intervention activities.

(3) For the purposes of this section:

(a) "Statutory or nonstatutory diversion agreement" means an agreement under RCW 13.40.080 or any written agreement between a person accused of an offense listed in subsection (1) of this section and a court, county or city prosecutor, or designee thereof, whereby the person agrees to fulfill certain conditions in lieu of prosecution.

(b) "Deferred sentence" means a sentence that will not be carried out if the defendant meets certain requirements, such as complying with the conditions of probation.

NEW SECTION. Sec. 16. If funds are appropriated specifically for this purpose, the criminal justice training commission, in consultation with the Washington association of sheriffs and police chiefs, shall, by December 1, 2010, develop a model policy on law enforcement officer implementation of the procedures provided in this act relating to contact with a minor who is a "sexually exploited child" as defined in this act or who is a victim of offenses related to commercial sexual abuse of a minor as defined in chapter 9.68A RCW. The commission shall develop a curriculum based on the model policy for inclusion in its basic training academy by January 1, 2011.

Sec. 17. RCW 9.68A.110 and 2007 c 368 s 3 are each amended to read as follows:

(1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of RCW 9.68A.090 or 9.68A.100. This chapter does not apply to lawful conduct between spouses.

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter(~~(- PROVIDED, That)~~). It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.100, 9.68A.101, or 9.68A.102, it is not a defense that the defendant did not know the alleged victim's age(~~(- PROVIDED, That)~~). It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

(4) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, it shall be an affirmative defense that the defendant was a law enforcement officer in the process of conducting an official investigation of a sex-related crime against a minor, or that the

defendant was providing individual case treatment as a recognized medical facility or as a psychiatrist or psychologist licensed under Title 18 RCW.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, the state is not required to establish the identity of the alleged victim.

Sec. 18. RCW 43.63A.740 and 2009 c 387 s 2 are each amended to read as follows:

The prostitution prevention and intervention account is created in the state treasury. All designated receipts from fees under RCW 9.68A.105 and 9A.88.120 and fines collected under RCW 9A.88.140 shall be deposited into the account. Expenditures from the account may be used (~~(only for)~~) in the following order of priority:

(1) Programs that provide mental health and substance abuse counseling, parenting skills training, housing relief, education, and vocational training for youth who have been diverted for a prostitution or prostitution loitering offense pursuant to RCW 13.40.213;

(2) Funding for services provided to sexually exploited children as defined in RCW 13.32A.030 in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs;

(3) Funding for services specified in RCW 74.14B.060 and 74.14B.070 for sexually exploited children; and

(4) Funding the grant program to enhance prostitution prevention and intervention services under RCW 43.63A.720.

NEW SECTION. Sec. 19. The following acts or parts of acts are each repealed: 2009 c 252 s 4 (uncodified)."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Stevens moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6476.

Senator Stevens spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Stevens that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6476.

The motion by Senator Stevens carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6476 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6476, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6476, 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 Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridmore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and McCaslin

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

ENGROSSED SUBSTITUTE SENATE BILL NO. 6476, 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 10:02 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

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

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House receded from its amendment to SENATE BILL NO. 6243 and passed the bill without the House amendment, and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House receded from its amendment to SUBSTITUTE SENATE BILL NO. 6350 and passed the bill without the House amendment, and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6481 with the following amendment: 6481 AMH AGNR H5306.1 Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 76.09.240 and 2007 c 236 s 1 and 2007 c 106 s 6 are each reenacted and amended to read as follows:

(1) ~~((On or before December 31, 2008:))~~

(a) Counties planning under RCW 36.70A.040 with a population greater than one hundred thousand, and the cities and towns within those counties, where more than a total of twenty-five Class IV forest practices applications, as defined in RCW 76.09.050(1) Class IV (a) through (d), have been filed with the department between January 1, 2003, and December 31, 2005, shall adopt and enforce ordinances or regulations as provided in subsection (2) of this section for the following:

(i) Forest practices classified as Class I, II, III, and IV that are within urban growth areas designated under RCW 36.70A.110, except for forest practices on ownerships of contiguous forest land equal to or greater than twenty acres where the forest landowner provides, to the department and the county, a written statement of intent, signed by the forest landowner, not to convert to a use other than growing commercial timber for ten years. This statement must be accompanied by either:

(A) A written forest management plan acceptable to the department; or

(B) Documentation that the land is enrolled as forest land of long-term commercial significance under the provisions of chapter 84.33 RCW; and

(ii) Forest practices classified as Class IV, outside urban growth areas designated under RCW 36.70A.110, involving either timber harvest or road construction, or both on:

(A) Lands platted after January 1, 1960, as provided in chapter 58.17 RCW;

(B) Lands that have or are being converted to another use; or

(C) Lands which, under RCW 76.09.070, are not to be reforested because of the likelihood of future conversion to urban development;

(b) Counties planning under RCW 36.70A.040, and the cities and towns within those counties, not included in (a) of this subsection, may adopt and enforce ordinances or regulations as provided in (a) of this subsection; and

(c) Counties not planning under RCW 36.70A.040, and the cities and towns within those counties, may adopt and enforce ordinances or regulations as provided in subsection (2) of this section for forest practices classified as Class IV involving either timber harvest or road construction, or both on:

(i) Lands platted after January 1, 1960, as provided in chapter 58.17 RCW;

(ii) Lands that have or are being converted to another use; or

(iii) Lands which, under RCW 76.09.070, are not to be reforested because of the likelihood of future conversion to urban development.

(2) Before a county, city, or town may regulate forest practices under subsection (1) of this section, it shall ensure that its critical areas and development regulations are in compliance with RCW 36.70A.130 and, if applicable, RCW 36.70A.215. The county, city, or town shall notify the department and the department of ecology in writing sixty days prior to adoption of the development regulations required in this section. The transfer of jurisdiction shall not occur until the county, city, or town has notified the department, the department of revenue, and the department of ecology in writing of the effective date of the regulations. Ordinances and regulations adopted under subsection (1) of this section and this subsection must be consistent with or supplement development regulations that protect critical areas pursuant to RCW 36.70A.060, and shall at a minimum include:

(a) Provisions that require appropriate approvals for all phases of the conversion of forest lands, including land clearing and grading; and

(b) Procedures for the collection and administration of permit and recording fees.

(3) Activities regulated by counties, cities, or towns as provided in subsections (1) and (2) of this section shall be administered and enforced by those counties, cities, or towns. The department shall not regulate these activities under this chapter.

(4) The board shall continue to adopt rules and the department shall continue to administer and enforce those rules in each county, city, or town for all forest practices as provided in this chapter until such a time as the county, city, or town has updated its development regulations as required by RCW 36.70A.130 and, if applicable, RCW 36.70A.215, and has adopted ordinances or regulations under subsections (1) and (2) of this section. However, counties, cities, and towns that have adopted ordinances or regulations regarding forest practices prior to July 22, 2007, are not required to readopt their ordinances or regulations in order to satisfy the requirements of this section.

(5) Upon request, the department shall provide technical assistance to all counties, cities, and towns while they are in the

process of adopting the regulations required by this section, and after the regulations become effective.

(6) For those forest practices over which the board and the department maintain regulatory authority no county, city, municipality, or other local or regional governmental entity shall adopt or enforce any law, ordinance, or regulation pertaining to forest practices, except that to the extent otherwise permitted by law, such entities may exercise any:

(a) Land use planning or zoning authority: PROVIDED, That exercise of such authority may regulate forest practices only: (i) Where the application submitted under RCW 76.09.060 as now or hereafter amended indicates that the lands have been or will be converted to a use other than commercial forest product production; or (ii) on lands which have been platted after January 1, 1960, as provided in chapter 58.17 RCW: PROVIDED, That no permit system solely for forest practices shall be allowed; that any additional or more stringent regulations shall not be inconsistent with the forest practices regulations enacted under this chapter; and such local regulations shall not unreasonably prevent timber harvesting;

(b) Taxing powers;

(c) Regulatory authority with respect to public health; and

(d) Authority granted by chapter 90.58 RCW, the "Shoreline Management Act of 1971."

(7) All counties and cities adopting or enforcing regulations or ordinances under this section shall include in the regulation or ordinance a requirement that a verification accompany every permit issued for forest land by that county or city associated with the conversion to a use other than commercial timber operation, as that term is defined in RCW 76.09.020, that verifies that the land in question is not or has not been subject to a notice of conversion to nonforestry uses under RCW 76.09.060 during the six-year period prior to the submission of a permit application.

(8) To improve the administration of the forest excise tax created in chapter 84.33 RCW, a county, city, or town that regulates forest practices under this section shall report permit information to the department of revenue for all approved forest practices permits. The permit information shall be reported to the department of revenue no later than sixty days after the date the permit was approved and shall be in a form and manner agreed to by the county, city, or town and the department of revenue. Permit information includes the landowner's legal name, address, telephone number, and parcel number."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Morton moved that the Senate concur in the House amendment(s) to Senate Bill No. 6481.

Senator Morton spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators Brown, Fairley, Haugen and Murray were excused.

MOTION

On motion of Senator Brandland, Senators Benton, Carrell and McCaslin were excused.

The President declared the question before the Senate to be the motion by Senator Morton that the Senate concur in the House amendment(s) to Senate Bill No. 6481.

The motion by Senator Morton carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6481 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6481, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6481, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Becker, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoessler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, Brown, Fairley, Haugen, McCaslin and Murray

SENATE BILL NO. 6481, 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 2, 2010

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6561 with the following amendment(s): 6561-S2.E AMH ENGR H5336.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.04.240 and 1961 c 302 s 16 are each amended to read as follows:

An order of court adjudging a child (~~delinquent~~) a juvenile offender or dependent under the provisions of this chapter shall in no case be deemed a conviction of crime.

Sec. 2. RCW 13.50.050 and 2008 c 221 s 1 are each amended to read as follows:

(1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (12) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section, RCW 13.50.010, 13.40.215, and 4.24.550.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Except as provided in RCW 4.24.550, information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information

FIFTY EIGHTH DAY, MARCH 9, 2010

could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) Upon the decision to arrest or the arrest, law enforcement and prosecuting attorneys may cooperate with schools in releasing information to a school pertaining to the investigation, diversion, and prosecution of a juvenile attending the school. Upon the decision to arrest or the arrest, incident reports may be released unless releasing the records would jeopardize the investigation or prosecution or endanger witnesses. If release of incident reports would jeopardize the investigation or prosecution or endanger witnesses, law enforcement and prosecuting attorneys may release information to the maximum extent possible to assist schools in protecting other students, staff, and school property.

(8) The juvenile court and the prosecutor may set up and maintain a central record-keeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central record-keeping system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central record-keeping system without notification by the diversion unit of the date on which the offender agreed to diversion.

(9) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(10) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.

(11) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (23) of this section, order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(12)(a) The court shall not grant any motion to seal records for class A offenses made pursuant to subsection (11) of this section that is filed on or after July 1, 1997, unless ~~(it finds that)~~:

~~((a) For class B offenses other than sex offenses,))~~ (i) Since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction~~((: For class C offenses other than sex offenses, since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent two~~

2010 REGULAR SESSION

~~consecutive years in the community without committing any offense or crime that subsequently results in conviction. For gross misdemeanors and misdemeanors, since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent two consecutive years in the community without committing any offense or crime that subsequently results in conviction. For diversions, since completion of the diversion agreement, the person has spent two consecutive years in the community without committing any offense or crime that subsequently results in conviction or diversion))~~;

~~((b))~~ (ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

~~((c))~~ (iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

~~((d))~~ (iv) The person has not been convicted of a ~~(class A or)~~ sex offense; and

~~((e))~~ (v) Full restitution has been paid.

(b) The court shall not grant any motion to seal records for class B, C, gross misdemeanor and misdemeanor offenses and diversions made under subsection (11) of this section unless:

(i) Since the date of last release from confinement, including full-time residential treatment, if any, entry of disposition, or completion of the diversion agreement, the person has spent two consecutive years in the community without being convicted of any offense or crime;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person has not been convicted of a sex offense; and

(v) Full restitution has been paid.

(13) The person making a motion pursuant to subsection (11) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(14) If the court grants the motion to seal made pursuant to subsection (11) of this section, it shall, subject to subsection (23) of this section, order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(15) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and subsection (23) of this section.

(16) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order for the purposes of chapter 9.94A RCW. The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(17)(a)(i) Subject to subsection (23) of this section, all records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office, shall be automatically destroyed within

ninety days of becoming eligible for destruction. Juvenile records are eligible for destruction when:

(A) The person who is the subject of the information or complaint is at least eighteen years of age;

(B) His or her criminal history consists entirely of one diversion agreement or counsel and release entered on or after June 12, 2008;

(C) Two years have elapsed since completion of the agreement or counsel and release;

(D) No proceeding is pending against the person seeking the conviction of a criminal offense; and

(E) There is no restitution owing in the case.

(ii) No less than quarterly, the administrative office of the courts shall provide a report to the juvenile courts of those individuals whose records may be eligible for destruction. The juvenile court shall verify eligibility and notify the Washington state patrol and the appropriate local law enforcement agency and prosecutor's office of the records to be destroyed. The requirement to destroy records under this subsection is not dependent on a court hearing or the issuance of a court order to destroy records.

(iii) The state and local governments and their officers and employees are not liable for civil damages for the failure to destroy records pursuant to this section.

(b) A person eighteen years of age or older whose criminal history consists entirely of one diversion agreement or counsel and release entered prior to June 12, 2008, may request that the court order the records in his or her case destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that two years have elapsed since completion of the agreement or counsel and release.

(c) A person twenty-three years of age or older whose criminal history consists of only referrals for diversion may request that the court order the records in those cases destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that all diversion agreements have been successfully completed and no proceeding is pending against the person seeking the conviction of a criminal offense.

(18) If the court grants the motion to destroy records made pursuant to subsection (17)(b) or (c) of this section, it shall, subject to subsection (23) of this section, order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

(19) The person making the motion pursuant to subsection (17)(b) or (c) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

(20) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.

(21) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.

(22) Any juvenile justice or care agency may, subject to the limitations in subsection (23) of this section and (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older or pursuant to subsection (17)(a) of this section.

(b) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings.

(23) No identifying information held by the Washington state patrol in accordance with chapter 43.43 RCW is subject to destruction or sealing under this section. For the purposes of this subsection, identifying information includes photographs,

fingerprints, palmprints, soleprints, toeprints and any other data that identifies a person by physical characteristics, name, birthdate or address, but does not include information regarding criminal activity, arrest, charging, diversion, conviction or other information about a person's treatment by the criminal justice system or about the person's behavior.

(24) Information identifying child victims under age eighteen who are victims of sexual assaults by juvenile offenders is confidential and not subject to release to the press or public without the permission of the child victim or the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Information identifying a child victim of sexual assault may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault.

Sec. 3. RCW 13.50.010 and 2009 c 440 s 1 are each amended to read as follows:

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of the family and children's ombudsman, the department of social and health services and its contracting agencies, schools; persons or public or private agencies having children committed to their custody; and any placement oversight committee created under RCW 72.05.415;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case;

(d) "Social file" means the juvenile court file containing the records and reports of the probation counselor.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. ~~((The court may also permit inspection of, or release of information from, records which have been sealed pursuant to RCW 13.50.050(12).))~~ The court shall release to the sentencing guidelines commission records needed for its research and data-gathering functions under RCW 9.94A.850 and other statutes. Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) Juvenile detention facilities shall release records to the sentencing guidelines commission under RCW 9.94A.850 upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

(10) Requirements in this chapter relating to the court's authority to compel disclosure shall not apply to the legislative children's oversight committee or the office of the family and children's ombudsman.

(11) For the purpose of research only, the administrative office of the courts shall maintain an electronic research copy of all records in the judicial information system related to juveniles. Access to the research copy is restricted to the Washington state center for court research. The Washington state center for court research shall maintain the confidentiality of all confidential records and shall preserve the anonymity of all persons identified in the research copy. The research copy may not be subject to any records retention schedule and must include records destroyed or removed from the judicial information system pursuant to RCW 13.50.050 (17) and (18) and 13.50.100(3).

(12) The court shall release to the Washington state office of public defense records needed to implement the agency's oversight, technical assistance, and other functions as required by RCW 2.70.020. Access to the records used as a basis for oversight, technical assistance, or other agency functions is restricted to the Washington state office of public defense. The Washington state office of public defense shall maintain the confidentiality of all confidential information included in the records.

Sec. 4. RCW 13.04.011 and 1997 c 338 s 6 are each amended to read as follows:

For purposes of this title:

(1) "Adjudication" has the same meaning as "conviction" in RCW 9.94A.030, ~~((and the terms must be construed identically and used interchangeably))~~ but only for the purposes of sentencing under chapter 9.94A RCW;

(2) Except as specifically provided in RCW 13.40.020 and chapter 13.24 RCW, "juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years;

(3) "Juvenile offender" and "juvenile offense" have the meaning ascribed in RCW 13.40.020;

(4) "Court" when used without further qualification means the juvenile court judge(s) or commissioner(s);

(5) "Parent" or "parents," except as used in chapter 13.34 RCW, means that parent or parents who have the right of legal custody of the child. "Parent" or "parents" as used in chapter 13.34 RCW, means the biological or adoptive parents of a child unless the legal rights of that person have been terminated by judicial proceedings;

(6) "Custodian" means that person who has the legal right to custody of the child."

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 Engrossed Second Substitute Senate Bill No. 6561.

Senator Hargrove spoke in favor of the motion.

Senators Carrell and Roach spoke against passage 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 Engrossed Second Substitute Senate Bill No. 6561.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6561 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6561, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6561, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 31; Nays, 14; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Berkey, Brandland, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Stevens, Swecker and Tom

Voting nay: Senators Benton, Carrell, Hewitt, Hobbs, Holmquist, Kilmer, King, Marr, Morton, Parlette, Pflug, Roach, Schoesler and Zarelli

Excused: Senators Brown, Haugen, McCaslin and Murray

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6561, 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 2, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6604 with the following amendment(s): 6604-S.E AMH ENGR H5401.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.655.061 and 2009 c 524 s 5 are each amended to read as follows:

(1) The high school assessment system shall include but need not be limited to the Washington assessment of student learning, opportunities for a student to retake the content areas of the assessment in which the student was not successful, and if approved by the legislature pursuant to subsection (10) of this section, one or more objective alternative assessments for a student to demonstrate achievement of state academic standards. The objective alternative assessments for each content area shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning for each content area.

(2) Subject to the conditions in this section, a certificate of academic achievement shall be obtained by most students at about the age of sixteen, and is evidence that the students have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045 or 28A.655.0611, acquisition of the certificate is required for graduation from a public high school but is not the only requirement for graduation.

(3) Beginning with the graduating class of 2008, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the reading, writing, and mathematics content areas of the high school Washington assessment of student learning shall earn a certificate of academic achievement. If a student does not successfully meet the state standards in one or more content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area up to four times at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of academic achievement. Once objective alternative assessments are authorized pursuant to subsection (10) of this section, a student may use the objective alternative assessments to demonstrate that the student successfully meets the state standards for that content area if the student has taken the Washington assessment of student learning at least once. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement.

(4) Beginning no later than with the graduating class of 2013, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the Washington assessment of student learning or the objective alternative assessments in order to earn a certificate of academic achievement. The state board of education may adopt a rule that implements the requirements of this subsection (4) beginning with a graduating class before the graduating class of 2013, if the state board of education adopts the rule by September 1st of the freshman school year of the graduating class to which the requirements of this subsection (4) apply. The state board of education's authority under this subsection (4) does not alter the requirement that any change in performance standards for the tenth grade assessment must comply with RCW 28A.305.130.

(5) The state board of education may not require the acquisition of the certificate of academic achievement for students in home-based instruction under chapter 28A.200 RCW, for students enrolled in private schools under chapter 28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

(6) A student may retain and use the highest result from each successfully completed content area of the high school assessment.

(7) School districts must make available to students the following options:

(a) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a public school; or

(b) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a high school completion program at a community or technical college. The superintendent of public instruction and the state board for community and technical colleges shall jointly identify means by which students in these programs can be assessed.

(8) Students who achieve the standard in a content area of the high school assessment but who wish to improve their results shall pay for retaking the assessment, using a uniform cost determined by the superintendent of public instruction.

(9) Opportunities to retake the assessment at least twice a year shall be available to each school district.

(10)(a) The office of the superintendent of public instruction shall develop options for implementing objective alternative assessments, which may include an appeals process for students' scores, for students to demonstrate achievement of the state academic standards. The objective alternative assessments shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning and be objective in its determination of student achievement of the state standards. Before any objective alternative assessments in addition to those authorized in RCW 28A.655.065 or (b) of this subsection are used by a student to demonstrate that the student has met the state standards in a content area required to obtain a certificate, the legislature shall formally approve the use of any objective alternative assessments through the omnibus appropriations act or by statute or concurrent resolution.

(b)(i) A student's score on the mathematics, reading or English, or writing portion of the SAT or the ACT may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standards for the certificate of academic achievement. The state board of education shall identify the scores students must achieve on the relevant portion of the SAT or ACT to meet or exceed the state standard in the relevant content area on the Washington assessment of student learning. The state board of education shall identify the first scores by December 1, 2007. After the first scores are established, the state board may increase but not decrease the scores required for students to meet or exceed the state standards.

(ii) Until August 31, 2008, a student's score on the mathematics portion of the PSAT may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standard for the certificate of academic achievement. The state board of education shall identify the score students must achieve on the mathematics portion of the PSAT to meet or exceed the state standard in that content area on the Washington assessment of student learning.

(iii) A student who scores at least a three on the grading scale of one to five for selected AP examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A score of three on the AP examinations in calculus or statistics may be used as an alternative assessment for the mathematics portion of the Washington assessment of student learning. A score of three on the AP examinations in English language and composition may be used as an alternative assessment for the writing portion of the Washington assessment of student learning. A score of three on the AP examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States

FIFTY EIGHTH DAY, MARCH 9, 2010

history, world history, United States government and politics, or comparative government and politics may be used as an alternative assessment for the reading portion of the Washington assessment of student learning.

(11) By December 15, 2004, the house of representatives and senate education committees shall obtain information and conclusions from recognized, independent, national assessment experts regarding the validity and reliability of the high school Washington assessment of student learning for making individual student high school graduation determinations.

(12) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare plans for and notify students and their parents or legal guardians as provided in this subsection ~~((42))~~.

~~((a))~~ Student learning plans are required for eighth ~~((through twelfth))~~ grade students who were not successful on any or all of the content areas of the ~~((Washington))~~ state assessment ~~((for student learning))~~ during the previous school year or who may not be on track to graduate due to credit deficiencies or absences. The parent or legal guardian shall be notified about the information in the student learning plan, preferably through a parent conference and at least annually. To the extent feasible, schools serving English language learner students and their parents shall translate the plan into the primary language of the family. The plan shall include the following information as applicable:

~~((i))~~ ~~(a)~~ The student's results on the ~~((Washington))~~ state assessment ~~((of student learning))~~;

~~((ii))~~ ~~(b)~~ If the student is in the transitional bilingual program, the score on his or her Washington language proficiency test II;

~~((iii))~~ ~~(c)~~ Any credit deficiencies;

~~((iv))~~ ~~(d)~~ The student's attendance rates over the previous two years;

~~((v))~~ ~~(e)~~ The student's progress toward meeting state and local graduation requirements;

~~((vi))~~ ~~(f)~~ The courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation;

~~((vii))~~ ~~(g)~~ Remediation strategies and alternative education options available to students, including informing students of the option to continue to receive instructional services after grade twelve or until the age of twenty-one;

~~((viii))~~ ~~(h)~~ The alternative assessment options available to students under this section and RCW 28A.655.065;

~~((ix))~~ ~~(i)~~ School district programs, high school courses, and career and technical education options available for students to meet graduation requirements; and

~~((x))~~ ~~(j)~~ Available programs offered through skill centers or community and technical colleges, including the college high school diploma options under RCW 28B.50.535.

~~((b))~~ All fifth grade students who were not successful in one or more of the content areas of the fourth grade Washington assessment of student learning shall have a student learning plan.

~~(i)~~ The parent or guardian of the student shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, and provide strategies to help them improve their student's skills.

~~(ii)~~ Progress made on the student plan shall be reported to the student's parents or guardian at least annually and adjustments to the plan made as necessary.)

Sec. 2. RCW 28A.225.015 and 1999 c 319 s 6 are each amended to read as follows:

2010 REGULAR SESSION

(1) If a parent enrolls a child who is six or seven years of age in a public school, the child is required to attend and that parent has the responsibility to ensure the child attends for the full time that school is in session. An exception shall be made to this requirement for children whose parents formally remove them from enrollment if the child is less than eight years old and a petition has not been filed against the parent under subsection (3) of this section. The requirement to attend school under this subsection does not apply to a child enrolled in a public school part-time for the purpose of receiving ancillary services. A child required to attend school under this subsection may be temporarily excused upon the request of his or her parent for purposes agreed upon by the school district and parent.

(2) If a six or seven year-old child is required to attend public school under subsection (1) of this section and that child has unexcused absences, the public school in which the child is enrolled ~~((shall))~~ may:

(a) Inform the child's custodial parent, parents, or guardian by a notice in writing, by e-mail, or by telephone whenever the child has failed to attend school after one unexcused absence within any month during the current school year;

(b) Request a conference or conferences to be conducted by telephone or in person with the custodial parent, parents, or guardian and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences after two unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the second unexcused absence, then the school district may schedule this conference on that day; and

(c) Take steps to eliminate or reduce the child's absences. These steps ~~((shall))~~ may include, where appropriate, adjusting the child's school program or school or course assignment, providing more individualized or remedial instruction, offering assistance in enrolling the child in available alternative schools or programs, or assisting the parent or child to obtain supplementary services that may help eliminate or ameliorate the cause or causes for the absence from school.

(3) If a child required to attend public school under subsection (1) of this section has seven unexcused absences in a month or ten unexcused absences in a school year, the school district ~~((shall))~~ may file a petition for civil action as provided in RCW 28A.225.035 against the parent of the child.

(4) This section does not require a six or seven year old child to enroll in a public or private school or to receive home-based instruction. This section only applies to six or seven year old children whose parents enroll them full time in public school and do not formally remove them from enrollment as provided in subsection (1) of this section.

Sec. 3. RCW 28A.225.020 and 2009 c 266 s 1 are each amended to read as follows:

(1) If a child required to attend school under RCW 28A.225.010 fails to attend school without valid justification, the public school in which the child is enrolled shall take the following actions if the child is enrolled in the sixth grade or above, and may take the following actions if the child is enrolled in the fifth grade or below:

(a) Inform the child's custodial parent, parents, or guardian by a notice in writing, by e-mail, or by telephone whenever the child has failed to attend school after one unexcused absence within any month during the current school year. School officials shall inform the parent of the potential consequences of additional unexcused absences. If the custodial parent, parents, or guardian is not fluent in English, the preferred practice is to provide this information in a language in which the custodial parent, parents, or guardian is fluent; and

(b) Schedule a conference or conferences to be conducted by telephone or in person with the custodial parent, parents, or guardian and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences after two unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the second unexcused absence, then the school district may schedule this conference on that day~~((and))~~.

~~((=))~~ (2) The school may also take steps to eliminate or reduce the child's absences. These steps ~~((shall))~~ may include, where appropriate, adjusting the child's school program or school or course assignment, providing more individualized or remedial instruction, providing appropriate vocational courses or work experience, referring the child to a community truancy board, if available, requiring the child to attend an alternative school or program, or assisting the parent or child to obtain supplementary services that might eliminate or ameliorate the cause or causes for the absence from school. If the child's parent does not attend the scheduled conference, the conference may be conducted with the student and school official. However, the parent shall be notified of the steps to be taken to eliminate or reduce the child's absence.

~~((=))~~ (3) For purposes of this chapter, an "unexcused absence" means that a child:

(a) Has failed to attend the majority of hours or periods in an average school day or has failed to comply with a more restrictive school district policy; and

(b) Has failed to meet the school district's policy for excused absences.

~~((=))~~ (4) If a child transfers from one school district to another during the school year, the receiving school or school district shall include the unexcused absences accumulated at the previous school or from the previous school district for purposes of this section, RCW 28A.225.030, and 28A.225.015.

Sec. 4. RCW 28A.225.025 and 2009 c 266 s 2 are each amended to read as follows:

(1) For purposes of this chapter, "community truancy board" means a board composed of members of the local community in which the child attends school. Juvenile courts may establish and operate community truancy boards. If the juvenile court and the school district agree, a school district may establish and operate a community truancy board under the jurisdiction of the juvenile court. Juvenile courts may create a community truancy board or may use other entities that exist or are created, such as diversion units. However, a diversion unit or other existing entity must agree before it is used as a truancy board. Duties of a community truancy board shall include, but not be limited to, recommending methods for improving school attendance such as assisting the parent or the child to obtain supplementary services that might eliminate or ameliorate the causes for the absences or suggesting to the school district that the child enroll in another school, an alternative education program, an education center, a skill center, a dropout prevention program, or another public or private educational program.

(2) The legislature finds that utilization of community truancy boards, or other diversion units that fulfill a similar function, is the preferred means of intervention when preliminary methods of notice and parent conferences and taking appropriate steps to eliminate or reduce unexcused absences have not been effective in securing the child's attendance at school. The legislature intends to encourage and support the development and expansion of community truancy boards and other diversion programs which are effective in promoting school attendance and preventing the need for more intrusive intervention by the court. ~~((Operation of a school truancy board does not excuse a district from the obligation of filing a petition within the requirements of RCW 28A.225.015(3).))~~

Sec. 5. RCW 28A.225.030 and 1999 c 319 s 2 are each amended to read as follows:

(1) If a child is required to attend school under RCW 28A.225.010 and ~~((if))~~ ~~((the))~~ ~~((actions taken by a))~~ school district takes actions under RCW 28A.225.020 that are not successful in substantially reducing an enrolled student's absences from public school, not later than the seventh unexcused absence by a child within any month during the current school year, or not later than the tenth unexcused absence during the current school year the school district ~~((shall))~~ may file a petition and supporting affidavit for a civil action with the juvenile court alleging a violation of RCW 28A.225.010: (a) By the parent; (b) by the child; or (c) by the parent and the child. Except as provided in this subsection, no additional documents need be filed with the petition.

(2) The district ~~((shall not later than))~~ may, after the fifth unexcused absence in a month:

(a) Enter into an agreement with a student and parent that establishes school attendance requirements;

(b) Refer a student to a community truancy board, if available, as defined in RCW 28A.225.025. The community truancy board shall enter into an agreement with the student and parent that establishes school attendance requirements and take other appropriate actions to reduce the child's absences; or

(c) File a petition under subsection (1) of this section.

(3) The petition may be filed by a school district employee who is not an attorney.

(4) If the school district ~~((fails to))~~ does not file a petition under this section, the parent of a child with five or more unexcused absences in any month during the current school year or upon the tenth unexcused absence during the current school year may file a petition with the juvenile court alleging a violation of RCW 28A.225.010.

(5) Petitions filed under this section may be served by certified mail, return receipt requested. If such service is unsuccessful, or the return receipt is not signed by the addressee, personal service is required.

Sec. 6. RCW 28A.225.151 and 1996 c 134 s 5 are each amended to read as follows:

(1) As required under subsection (2) of this section, ~~((each school))~~ if a school takes additional actions provided in RCW 28A.225.030, it shall document the actions taken ~~((under RCW 28A.225.030))~~ and report this information to the school district superintendent who shall compile the data for all the schools in the district and prepare an annual school district report for each school year and submit the report to the superintendent of public instruction. The reports shall be made upon forms furnished by the superintendent of public instruction and shall be transmitted as determined by the superintendent of public instruction.

(2) The reports under subsection (1) of this section shall include:

(a) The number of enrolled students and the number of unexcused absences;

(b) Documentation of the steps taken by the school district under each subsection of RCW 28A.225.020 at the request of the superintendent of public instruction. Each year, by May 1st, the superintendent of public instruction shall select ten school districts to submit the report at the end of the following school year. The ten districts shall represent different areas of the state and be of varied sizes. In addition, the superintendent of public instruction shall require any district that fails to keep appropriate records to submit a full report to the superintendent of public instruction under this subsection. All school districts shall document steps taken under RCW 28A.225.020 in each student's record, and make those records available upon request consistent with the laws governing student records;

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

(c) The number of enrolled students with ten or more unexcused absences in a school year or five or more unexcused absences in a month during a school year;

(d) A description of any programs or schools developed to serve students who have had five or more unexcused absences in a month or ten in a year including information about the number of students in the program or school and the number of unexcused absences of students during and after participation in the program. The school district shall also describe any placements in an approved private nonsectarian school or program or certified program under a court order under RCW 28A.225.090; and

(e) The number of petitions filed by a school district with the juvenile court.

(3) A report required under this section shall not disclose the name or other identification of a child or parent.

(4) The superintendent of public instruction shall collect these reports from all school districts and prepare an annual report for each school year to be submitted to the legislature no later than December 15th of each year.

NEW SECTION. Sec. 7. Sections 2 through 6 of this act take effect July 1, 2010."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6604 and ask the House to recede therefrom.

Senators McAuliffe spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6604 and ask the House to recede therefrom.

The motion by Senator McAuliffe carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6604 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6759 with the following amendment(s): 6759-S AMH GOOD H5594.1 Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that a critical factor in the eventual successful outcome of a K-12 education is for students to begin school ready, both intellectually and socially, to learn. The legislature also finds that, due to a variety of factors, some young children need supplemental instruction in preschool to assure that they have the opportunity to participate meaningfully and reach the necessary levels of achievement in the regular program of basic education. The legislature further finds that children who participate in high quality preschool programs have improved educational and life outcomes and are more likely to graduate from high school and pursue higher education, experience successful employment opportunities, and have increased earnings. Therefore the legislature intends to create a program of early learning that, when fully implemented, shall be an entitlement program for eligible children.

The legislature also finds that the state early childhood education and assistance program was established to help children from low-income families be prepared for kindergarten, and that the program has been a successful model for achieving that goal. Therefore, the legislature intends that the first phase of implementing the entitlement program of early learning shall be accomplished by utilizing the program standards and eligibility criteria in the early childhood education and assistance program. The legislature also intends that the implementation of subsequent phases of the program established by the ready for school act of 2010 will be aligned with the implementation of the state's all-day kindergarten program in order to maximize the gains resulting from investments in the two programs.

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

(1) "Community-based early learning providers" includes for-profit and nonprofit licensed providers of child care and preschool programs.

(2) "Program" means the program of early learning established in section 3 of this act for eligible children who are three and four years of age.

NEW SECTION. Sec. 3. PROGRAM STANDARDS. (1) Beginning September 1, 2011, an early learning program to provide voluntary preschool opportunities for children three and four years of age shall be implemented according to the funding and implementation plan in section 5 of this act. The program must be a comprehensive program providing early childhood education and family support, options for parental involvement, and health information, screening, and referral services, as family need is determined. Participation in the program is voluntary. On a space available basis, the program may allow enrollment of children who are not otherwise eligible by assessing a fee.

(2) The first phase of the program shall be implemented by utilizing the program standards and eligibility criteria in the early childhood education and assistance program.

(3) Subsequent phases of the program including, but not limited to, program standards and eligibility criteria, shall be defined by the legislature after receiving the recommendations from the director required in section 8 of this act.

(4) The director shall adopt rules for the following program components, as appropriate and necessary during the phased implementation of the program:

(a) Minimum program standards, including lead teacher, assistant teacher, and staff qualifications;

(b) Approval of program providers;

(c) Accountability and adherence to performance standards; and

(d) A method for allowing, on a space available basis, enrollment of children who are not otherwise eligible by assessing fees or copayments.

(5) The department has administrative responsibility for:

(a) Approving and contracting with providers according to rules developed by the director under this section;

(b) In partnership with school districts, monitoring program quality and assuring the program is responsive to the needs of eligible children;

(c) Assuring that program providers work cooperatively with school districts to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(d) Providing technical assistance to contracted providers.

NEW SECTION. Sec. 4. ELIGIBILITY. (1)(a) During the initial phase of implementation, the standards in RCW 43.215.405(3) used for eligibility determinations in the early

childhood education and assistance program shall be used to determine eligibility for the program.

(b) During subsequent phases of implementation, eligibility determinations shall be based on factors adopted by the legislature after receiving recommendations required in subsection (2) of this section.

(2) The director shall develop recommendations for legislative approval regarding eligibility criteria for subsequent phases of implementation of the program.

(3) The director shall report the recommendations required under subsection (2) of this section to the appropriate committees of the legislature not later than December 1, 2010.

NEW SECTION. Sec. 5. FUNDING AND STATEWIDE IMPLEMENTATION. (1) Funding for the program of early learning established under this chapter must be appropriated to the department. Allocations must be made on the basis of eligible children enrolled with eligible providers.

(2) The program shall be implemented in phases, so that full implementation is achieved in the 2017-18 school year.

(3) For the initial phase of the early learning program in school years 2011-12 and 2012-13, the legislature shall appropriate funding to the department for implementation of the program in an amount not less than the 2009-2011 enacted budget for the early childhood education and assistance program. The appropriation shall be sufficient to fund an equivalent number of slots as funded in the 2009-2011 enacted budget.

(4) Beginning in the 2013-14 school year, additional funding for the program must be phased in beginning in school districts providing all-day kindergarten programs under RCW 28A.150.315.

(5) Funding shall continue to be phased in incrementally each year until full statewide implementation of the early learning program is achieved in the 2017-18 school year, at which time any eligible child shall be entitled to be enrolled in the program.

(6) The department and the office of financial management shall annually review the caseload forecasts for the program and, beginning December 1, 2012, and annually thereafter, report to the governor and the appropriate committees of the legislature with recommendations for phasing in additional funding necessary to achieve statewide implementation in the 2017-18 school year.

(7) School districts and approved community-based early learning providers may contract with the department to provide services under the program. The department shall collaborate with school districts, community-based providers, and educational service districts to promote an adequate supply of approved providers.

NEW SECTION. Sec. 6. A new section is added to chapter 28A.320 RCW to read as follows:

For the program of early learning established in section 3 of this act, school districts:

(1) Shall work cooperatively with program providers to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(2) May contract with the department of early learning to deliver services under the program.

Sec. 7. RCW 43.215.020 and 2007 c 394 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(f) To support the implementation of the nongovernmental private- public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(g) To work cooperatively and in coordination with the early learning council;

(h) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs; ~~(and)~~

~~(i) To develop and adopt rules for administration of the program of early learning established in section 3 of this act; and~~

~~(j) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information through the internet and other means.~~

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

NEW SECTION. Sec. 8. REPORT AND RECOMMENDATIONS. The director of the department of early learning shall develop recommendations, including proposed legislation as appropriate and necessary, to achieve statewide implementation of the program of early learning established in section 3 of this act for children three and four years of age. The director shall report to the appropriate committees of the legislature by January 1, 2011 regarding:

(1) Program standards for a developmentally appropriate curriculum;

(2) Service standards for family support and health-related services;

(3) A plan for providing technical assistance necessary to support providers delivering services in early childhood education and assistance programs and head start programs in becoming approved providers of the program;

(4) A strategy to optimize phased implementation of the program on a schedule substantially similar to the implementation of full day kindergarten after a review of the locations where early childhood education and assistance programs are operating;

(5) Options for developing socioeconomically diverse, mixed classrooms; and

(6) Recommendations for naming the program.

Sec. 9. RCW 43.215.405 and 2006 c 265 s 210 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903.

(1) "Advisory committee" means the advisory committee under RCW 43.215.420.

(2) "Department" means the department of early learning.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

(3) "Eligible child" means a child not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services; a child eligible for special education due to disability under RCW 28A.155.020; and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Priority for enrollment shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(4) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 and are designated as eligible for funding by the department under RCW 43.215.430 and 43.215.440.

(5) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(6) "Family support services" means providing opportunities for parents to:

- (a) Actively participate in their child's early childhood program;
- (b) Increase their knowledge of child development and parenting skills;
- (c) Further their education and training;
- (d) Increase their ability to use needed services in the community;
- (e) Increase their self-reliance.

Sec. 10. RCW 43.215.405 and 2006 c 265 s 210 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903.

(1) "Advisory committee" means the advisory committee under RCW 43.215.420.

(2) "Department" means the department of early learning.

(3) "Eligible child" means a child not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services, and ~~((may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program))~~ a child eligible for special education due to disability under RCW 28A.155.020. Priority for enrollment shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(4) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 and are designated as eligible for funding by the department under RCW 43.215.430 and 43.215.440.

(5) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(6) "Family support services" means providing opportunities for parents to:

- (a) Actively participate in their child's early childhood program;
- (b) Increase their knowledge of child development and parenting skills;
- (c) Further their education and training;
- (d) Increase their ability to use needed services in the community;
- (e) Increase their self-reliance.

NEW SECTION. Sec. 11. The joint recommendations from the department of early learning, the superintendent of public instruction, and thrive by five, Washington, to the governor in December 2009, and the recommendations from the quality education council to the legislature in January 2010, both supported implementation of a voluntary program of early learning within the overall program of basic education. The legislature intends to direct further examination of these recommendations and Attorney General Opinion Number 8 (2009) through the convening of a working group to prepare a comprehensive plan for implementation of a voluntary, universal preschool program.

NEW SECTION. Sec. 12. (1) Beginning April 1, 2010, the department of early learning, in collaboration with the office of the superintendent of public instruction, shall convene a working group to develop recommendations for implementing a voluntary, universal preschool program for children ages three and four. Recognizing the program of early learning established in section 3 of this act, the working group shall prepare a proposal for implementing a voluntary universal prekindergarten program accessible to all three and four year olds in Washington. The working group also shall examine the opportunities and barriers of establishing a program of early learning under the program of basic education.

(2) The working group shall develop recommendations for the phased implementation of a voluntary, universal prekindergarten program, including recommendations relating to the following elements:

- (a) Criteria for eligible children;
- (b) Program standards for a developmentally appropriate curriculum to include:
 - (i) Physical well-being, health, and motor development;
 - (ii) Social and emotional development;
 - (iii) Cognition and general knowledge; and
 - (iv) Language, literacy, numeracy, and communication;
- (c) Service standards for family support and health-related services to include:
 - (i) Working with parents to access appropriate medical, dental, and other health screenings for children;
 - (ii) Providing opportunities for parental involvement, education, and leadership development; and
 - (iii) Family contact designed to assist the child's family in:
 - (A) Assessing family strengths and needs;
 - (B) Setting family goals and reviewing progress;
 - (C) Accessing community resources; and
 - (D) Coordinating transitions between the program, child care, home, and kindergarten;
 - (d) Criteria for eligible providers;
 - (e) Governance responsibilities for the superintendent of public instruction and the department of early learning;
 - (f) Funding necessary for implementation, including professional development, facilities, and technical assistance;
 - (g) An implementation timeline;
 - (h) The need for transportation services for the program based on an analysis of the transportation services and arrangements being used in early childhood education and assistance programs and the need to address future transportation services;
 - (i) Options for developing socioeconomically diverse classrooms; and

(j) One or more sliding scale fee structures for possible use in the program of early learning established in section 3 of this act, and in the voluntary, universal preschool program for which a comprehensive plan is required under this section.

(3) While developing the plan, the working group shall review early learning programs in Washington, including the early childhood education and assistance program and the federal head start program, as well as voluntary, universal programs in other states.

(4) Membership of the working group shall include:

(a) One or more representatives from the following: The department of early learning; the office of the superintendent of public instruction; the nongovernmental private-public partnership created in RCW 43.215.070; and the office of the attorney general;

(b) Two members of the early learning advisory council established in RCW 43.215.090, to be appointed by the council; and

(c) Additional stakeholders with expertise in early learning to be appointed by the early learning advisory council.

(5) The working group shall consult with the achievement gap oversight and accountability committee established in RCW 28A.300.136, and may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(6) The working group shall submit a brief progress report by July 1, 2011, and final report with the comprehensive plan by October 1, 2011, to the legislature, the governor, the early learning advisory council, and the quality education council established in RCW 28A.290.010.

NEW SECTION. Sec. 13. The superintendent of public instruction, the director of the department of early learning, and the director of the office of financial management, or their respective designees, shall report to the appropriate committees of the legislature by January 1, 2012, with recommendations for a budgeting and funding allocation method consistent with the recommendations developed under section 12 of this act.

Sec. 14. RCW 43.215.090 and 2007 c 394 s 3 are each amended to read as follows:

(1) The early learning advisory council is established to advise the department on statewide early learning ~~((community needs and progress))~~ issues that would build a comprehensive system of quality early learning programs and services for Washington's children and families by assessing needs and the availability of services, aligning resources, developing plans for data collection and professional development of early childhood educators, and establishing key performance measures.

(2) The council shall work in conjunction with the department to develop a statewide early learning plan that ~~((crosses systems and sectors to promote))~~ guides the department in promoting alignment of private and public sector actions, objectives, and resources, and ((to ensure)) ensuring school readiness.

(3) The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(4) Council members shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(5) The council shall consist of not more than ~~((twenty-five))~~ twenty-three members, as follows:

(a) The governor shall appoint at least one representative from each of the following: The department, the office of financial

management, the department of social and health services, the department of health, the higher education coordinating board, and the state board for community and technical colleges;

(b) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

(c) The governor shall appoint ~~((at least))~~ seven leaders in early childhood education, with at least one representative with experience or expertise in each of the areas such as the following ~~((areas))~~: Children with disabilities, the K-12 system, family day care providers, and child care centers;

(d) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(e) Two parents, one of whom serves on the department's parent advisory council, to be appointed by the governor;

(f) ~~((Two))~~ One representative~~((s))~~ of the private-public partnership created in RCW 43.215.070, to be appointed by the partnership board;

(g) One representative designated by sovereign tribal governments; and

(h) One representative from the Washington federation of independent schools.

(6) The council shall be cochaired by one representative of a state agency and one nongovernmental member, to be elected by the council for two-year terms.

(7) The council shall appoint two members and stakeholders with expertise in early learning to serve on the working group created in section 12, chapter . . . Laws of 2010 (section 12 of this act).

~~((8))~~ (8) Each member of the board shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

~~((8))~~ (9) The department shall provide staff support to the council.

Sec. 15. RCW 28A.290.010 and 2009 c 548 s 114 are each amended to read as follows:

(1) The quality education council is created to recommend and inform the ongoing implementation by the legislature of an evolving program of basic education and the financing necessary to support such program. The council shall develop strategic recommendations on the program of basic education for the common schools. The council shall take into consideration the capacity report produced under RCW 28A.300.172 and the availability of data and progress of implementing the data systems required under RCW 28A.655.210. Any recommendations for modifications to the program of basic education shall be based on evidence that the programs effectively support student learning. The council shall update the statewide strategic recommendations every four years. The recommendations of the council are intended to:

(a) Inform future educational policy and funding decisions of the legislature and governor;

(b) Identify measurable goals and priorities for the educational system in Washington state for a ten-year time period, including the goals of basic education and ongoing strategies for coordinating statewide efforts to eliminate the achievement gap and reduce student dropout rates; and

(c) Enable the state of Washington to continue to implement an evolving program of basic education.

(2) The council may request updates and progress reports from the office of the superintendent of public instruction, the state board of education, the professional educator standards board, and the

FIFTY EIGHTH DAY, MARCH 9, 2010

department of early learning on the work of the agencies as well as educational working groups established by the legislature.

(3) The chair of the council shall be selected from the councilmembers. The council shall be composed of the following members:

(a) Four members of the house of representatives, with two members representing each of the major caucuses and appointed by the speaker of the house of representatives;

(b) Four members of the senate, with two members representing each of the major caucuses and appointed by the president of the senate; and

(c) One representative each from the office of the governor, office of the superintendent of public instruction, state board of education, professional educator standards board, and department of early learning.

(4) In the 2009 fiscal year, the council shall meet as often as necessary as determined by the chair. In subsequent years, the council shall meet no more than four times a year.

(5)(a) The council shall submit an initial report to the governor and the legislature by January 1, 2010, detailing its recommendations, including recommendations for resolving issues or decisions requiring legislative action during the 2010 legislative session, and recommendations for any funding necessary to continue development and implementation of chapter 548, Laws of 2009.

(b) The initial report shall, at a minimum, include:

(i) Consideration of how to establish a statewide beginning teacher mentoring and support system;

(ii) Recommendations for a program of early learning for at-risk children;

(iii) A recommended schedule for the concurrent phase-in of the changes to the instructional program of basic education and the implementation of the funding formulas and allocations to support the new instructional program of basic education as established under chapter 548, Laws of 2009. The phase-in schedule shall have full implementation completed by September 1, 2018; and

(iv) A recommended schedule for phased-in implementation of the new distribution formula for allocating state funds to school districts for the transportation of students to and from school, with phase-in beginning no later than September 1, 2013.

(6) After receiving the comprehensive plan required under section 12, chapter . . . Laws of 2010 (section 12 of this act), the council shall develop recommendations for incorporating the plan into the strategic recommendations required under subsection (1) of this section and submit a report to the legislature by January 1, 2011.

(7) The council shall be staffed by the office of the superintendent of public instruction and the office of financial management. Additional staff support shall be provided by the state entities with representatives on the ((committee)) council. Senate committee services and the house of representatives office of program research may provide additional staff support.

~~((7))~~ (8) Legislative members of the council shall serve without additional compensation but may be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 16. Sections 2 through 5 and 19 of this act are each added to chapter 43.215 RCW.

NEW SECTION. Sec. 17. Section 9 of this act expires September 1, 2011.

NEW SECTION. Sec. 18. Section 10 of this act takes effect September 1, 2011.

2010 REGULAR SESSION

NEW SECTION. Sec. 19. Sections 1 through 5 of this act may be known as the ready for school act of 2010."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kauffman moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6759 and request of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Kauffman that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6759 and request conference thereon.

The motion by Senator Kauffman carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6759 and requested of the House a conference thereon by voice vote.

MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 6610 with the following amendment(s): 6610.E AMH DICK MERE 172 Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The Washington state institute for public policy shall, in collaboration with the department of social and health services and other applicable entities, undertake a search for validated mental health assessment tools in each of the following areas:

(a) An assessment tool or combination of tools to be used by individuals performing court-ordered competency assessments and level of risk assessments of defendants pursuant to chapter 10.77 RCW; and

(b) An assessment tool or combination of tools to be used by individuals developing recommendations to courts as to the appropriateness of conditional release from inpatient treatment of criminally insane patients pursuant to chapter 10.77 RCW.

(2) This section expires June 30, 2011.

Sec. 2. RCW 10.77.120 and 2000 c 94 s 15 are each amended to read as follows:

(1) The secretary shall ((forthwith)) provide adequate care and individualized treatment to persons found criminally insane at one or several of the state institutions or facilities under ((his or her)) the direction and control ((wherein persons committed as criminally insane may be confined. Such persons shall be under the custody and control of the secretary to the same extent as are other persons who are committed to the secretary's custody, but such provision shall be made for their control, care, and treatment as is proper in view of their condition)) of the secretary. In order that the secretary may adequately determine the nature of the mental illness or developmental disability of the person committed ((to him or her)) as criminally insane, ((and in order for the secretary to place such individuals in a proper facility,)) all persons who are committed to the secretary as criminally insane shall be promptly examined by qualified personnel in ((such a manner as)) order to provide a proper evaluation and diagnosis of such individual. The examinations of all ((developmentally disabled)) persons with developmental disabilities committed under this chapter shall be performed by developmental disabilities professionals. Any person so committed shall not be released from the control of the secretary

~~((save upon the))~~ except by order of a court of competent jurisdiction made after a hearing and judgment of release.

(2) Whenever there is a hearing which the committed person is entitled to attend, the secretary shall send ~~((him or her))~~ the person in the custody of one or more department employees to the county ~~((where))~~ in which the hearing is to be held at the time the case is called for trial. During the time the person is absent from the facility, ~~((he or she shall))~~ the person may be confined in a facility designated by and arranged for by the department, ~~((and))~~ but shall at all times be deemed to be in the custody of the department employee and provided necessary treatment. If the decision of the hearing remits the person to custody, the department employee shall ~~((forthwith))~~ return the person to such institution or facility designated by the secretary. If the state appeals an order of release, such appeal shall operate as a stay, and the person shall remain in custody ~~((shall so remain))~~ and be ~~((forthwith))~~ returned to the institution or facility designated by the secretary until a final decision has been rendered in the cause.

Sec. 3. RCW 10.77.150 and 1998 c 297 s 41 are each amended to read as follows:

(1) Persons examined pursuant to RCW 10.77.140 may make application to the secretary for conditional release. The secretary shall, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, forward to the court of the county which ordered the person's commitment the person's application for conditional release as well as the secretary's recommendations concerning the application and any proposed terms and conditions upon which the secretary reasonably believes the person can be conditionally released. Conditional release may also contemplate partial release for work, training, or educational purposes.

(2) In instances in which persons examined pursuant to RCW 10.77.140 have not made application to the secretary for conditional release, but the secretary, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, reasonably believes the person may be conditionally released, the secretary may submit a recommendation for release to the court of the county which ordered the person's commitment. The secretary's recommendation must include any proposed terms and conditions upon which the secretary reasonably believes the person may be conditionally released. Conditional release may also include partial release for work, training, or educational purposes. Notice of the secretary's recommendation under this subsection must be provided to the person for whom the secretary has made the recommendation for release and to his or her attorney.

(3)(a) The court of the county which ordered the person's commitment, upon receipt of an application or recommendation for conditional release with the secretary's recommendation for conditional release terms and conditions, shall within thirty days schedule a hearing. The court may schedule a hearing on applications recommended for disapproval by the secretary.

(b) The prosecuting attorney shall represent the state at such hearings and shall have the right to have the patient examined by an expert or professional person of the prosecuting attorney's choice. If the committed person is indigent, and he or she so requests, the court shall appoint a qualified expert or professional person to examine the person on his or her behalf.

(c) The issue to be determined at such a hearing is whether or not the person may be released conditionally without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security.

(d) The court, after the hearing, shall rule on the secretary's recommendations, and if it disapproves of conditional release, may do so only on the basis of substantial evidence. The court may modify the suggested terms and conditions on which the person is to be conditionally released. Pursuant to the determination of the

court after hearing, the committed person shall thereupon be released on such conditions as the court determines to be necessary, or shall be remitted to the custody of the secretary. If the order of conditional release includes a requirement for the committed person to report to a community corrections officer, the order shall also specify that the conditionally released person shall be under the supervision of the secretary of corrections or such person as the secretary of corrections may designate and shall follow explicitly the instructions of the secretary of corrections including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, and notifying the community corrections officer prior to making any change in the offender's address or employment. If the order of conditional release includes a requirement for the committed person to report to a community corrections officer, the community corrections officer shall notify the secretary or the secretary's designee, if the person is not in compliance with the court-ordered conditions of release.

~~((3))~~(4) If the court determines that receiving regular or periodic medication or other medical treatment shall be a condition of the committed person's release, then the court shall require him or her to report to a physician or other medical or mental health practitioner for the medication or treatment. In addition to submitting any report required by RCW 10.77.160, the physician or other medical or mental health practitioner shall immediately upon the released person's failure to appear for the medication or treatment or upon a change in mental health condition that renders the patient a potential risk to the public report ~~((the failure))~~ to the court, to the prosecuting attorney of the county in which the released person was committed, to the secretary, and to the supervising community corrections officer.

~~((4))~~(5) Any person, whose application for conditional release has been denied, may reapply after a period of six months from the date of denial.

Sec. 4. RCW 10.77.160 and 1993 c 31 s 7 are each amended to read as follows:

When a conditionally released person is required by the terms of his or her conditional release to report to a physician, department of corrections community corrections officer, or medical or mental health practitioner on a regular or periodic basis, the physician, department of corrections community corrections officer, medical or mental health practitioner, or other such person shall monthly, for the first six months after release and semiannually thereafter, or as otherwise directed by the court, submit to the court, the secretary, the institution from which released, and to the prosecuting attorney of the county in which the person was committed, a report stating whether the person is adhering to the terms and conditions of his or her conditional release, and detailing any arrests or criminal charges filed and any significant change in the person's mental health condition or other circumstances.

Sec. 5. RCW 10.77.190 and 1998 c 297 s 43 are each amended to read as follows:

(1) Any person submitting reports pursuant to RCW 10.77.160, the secretary, or the prosecuting attorney may petition the court to, or the court on its own motion may schedule an immediate hearing for the purpose of modifying the terms of conditional release if the petitioner or the court believes the released person is failing to adhere to the terms and conditions of his or her conditional release or is in need of additional care and treatment.

(2) If the prosecuting attorney, the secretary of social and health services, the secretary of corrections, or the court, after examining the report filed with them pursuant to RCW 10.77.160, or based on other information received by them, reasonably believes that a conditionally released person is failing to adhere to the terms and conditions of his or her conditional release the court or secretary of social and health services or the secretary of corrections may order that the conditionally released person be apprehended and taken into

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

custody ~~((until such time as a hearing can be scheduled to determine the facts and whether or not the person's conditional release should be revoked or modified))~~. The court shall be notified of the apprehension before the close of the next judicial day ~~((of the apprehension))~~. The court shall schedule a hearing within thirty days to determine whether or not the person's conditional release should be modified or revoked. Both the prosecuting attorney and the conditionally released person shall have the right to request an immediate mental examination of the conditionally released person. If the conditionally released person is indigent, the court or secretary of social and health services or the secretary of corrections or their designees shall, upon request, assist him or her in obtaining a qualified expert or professional person to conduct the examination.

(3) If the hospital or facility designated to provide outpatient care determines that a conditionally released person presents a threat to public safety, the hospital or facility shall immediately notify the secretary of social and health services or the secretary of corrections or their designees. The secretary shall order that the conditionally released person be apprehended and taken into custody.

(4) The court, upon receiving notification of the apprehension, shall promptly schedule a hearing. The issue to be determined is whether the conditionally released person did or did not adhere to the terms and conditions of his or her release, or whether the person presents a threat to public safety. Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or his or her conditional release shall be revoked and he or she shall be committed subject to release only in accordance with provisions of this chapter.

Sec. 6. RCW 10.77.200 and 2000 c 94 s 16 are each amended to read as follows:

(1) Upon application by the committed or conditionally released person, the secretary shall determine whether or not reasonable grounds exist for release. In making this determination, the secretary may consider the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case. If the secretary approves the release he or she then shall authorize the person to petition the court.

(2) In instances in which persons have not made application for release, but the secretary believes, after consideration of the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case, that reasonable grounds exist for release, the secretary may petition the court. If the secretary petitions the court for release under this subsection, notice of the petition must be provided to the person who is the subject of the petition and to his or her attorney.

(3) The petition shall be served upon the court and the prosecuting attorney. The court, upon receipt of the petition for release, shall within forty-five days order a hearing. Continuance of the hearing date shall only be allowed for good cause shown. The prosecuting attorney shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the prosecuting attorney's choice. If the petitioner is indigent, and the person so requests, the court shall appoint a qualified expert or professional person to examine him or her. If the petitioner ~~((is developmentally disabled))~~ has a developmental disability, the examination shall be performed by a developmental disabilities professional. The hearing shall be before a jury if demanded by either the petitioner or the prosecuting attorney. The burden of proof shall be upon the petitioner to show by a preponderance of the evidence that the petitioner no longer presents, as a result of a mental disease or defect, a substantial danger to other persons, or a substantial likelihood of committing criminal acts

jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

~~((3))~~ (4) For purposes of this section, a person affected by a mental disease or defect in a state of remission is considered to have a mental disease or defect requiring supervision when the disease may, with reasonable medical probability, occasionally become active and, when active, render the person a danger to others. Upon a finding that the petitioner has a mental disease or defect in a state of remission under this subsection, the court may deny release, or place or continue such a person on conditional release.

(5) Nothing contained in this chapter shall prohibit the patient from petitioning the court for release or conditional release from the institution in which he or she is committed. The issue to be determined on such proceeding is whether the petitioner, as a result of a mental disease or defect, is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

(6) Nothing contained in this chapter shall prohibit the committed person from petitioning for release by writ of habeas corpus.

NEW SECTION. Sec. 7. A new section is added to chapter 10.77 RCW to read as follows:

(1) The department shall review the costs of the operation of each of the following boards and the rates of recidivism and treatment outcomes for the populations under their jurisdiction as follows:

(a) The Oregon psychiatric security review board's administration of cases involving: (i) Persons judged to be guilty except for insanity; (ii) persons who would have been guilty of a felony or misdemeanor that caused or risked physical injury to another except for insanity; and (iii) persons affected by mental illness and determined to be a substantial danger to others; and

(b) The Virginia community services boards' administration of cases involving persons found not guilty by reason of insanity.

(2) The department shall report the results of its review to the appropriate committees of the legislature by December 15, 2010.

NEW SECTION. Sec. 8. A new section is added to chapter 10.77 RCW to read as follows:

For persons who have received court approval for conditional release, the secretary or the secretary's designee shall supervise the person's compliance with the court-ordered conditions of release. The level of supervision provided by the secretary shall correspond to the level of the person's public safety risk. In undertaking supervision of persons under this section, the secretary shall coordinate with any treatment providers designated pursuant to RCW 10.77.150(3), any department of corrections staff designated pursuant to RCW 10.77.150(2), and local law enforcement, if appropriate. The secretary shall adopt rules to implement this section."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 6610 and ask the House to recede therefrom.

Senators Hargrove and Carrell spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to concur in

the House amendment(s) to Engrossed Senate Bill No. 6610 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Engrossed Senate Bill No. 6610 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6730 with the following amendment(s): 6730-S AMH APPH H5340.5

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.34.096 and 2009 c 520 s 25 are each amended to read as follows:

(1) The department or supervising agency shall provide 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. The rights to notice and to be heard apply only to persons with whom a child has been placed by the department (~~before shelter care~~) 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.

(2) The department or other supervising agency and the court also shall consider, in any hearing under this chapter regarding a change in the child's placement, written information about the child submitted by persons who provided care to the child within twelve months preceding the hearing and other persons who have a significant relationship with the child.

Sec. 2. RCW 74.13.300 and 2009 c 520 s 77 are each amended to read as follows:

(1) Whenever a child has been placed in a foster family home or in the home of a relative caregiver or other suitable person as described in RCW 13.34.130(1)(b) by the department or supervising agency and the child has thereafter resided in the home for at least ninety consecutive days, the department or supervising agency shall notify the foster family, relative caregiver, or other suitable person at least five days prior to moving the child to another placement, unless:

- (a) A court order has been entered requiring an immediate change in placement;
- (b) The child is being returned home;
- (c) The child's safety is in jeopardy; or
- (d) The child is residing in a receiving home or a group home.

(2) If the child has resided in a foster family home or in the home of a relative caregiver or other suitable person as described in RCW 13.34.130(1)(b) for less than ninety days or if, due to one or more of the circumstances in subsection (1) of this section, it is not possible to give five days' notification, the department or supervising agency shall notify the foster family, relative caregiver, or suitable person of proposed placement changes as soon as reasonably possible.

(3) This section is intended (~~solely~~) to assist in minimizing disruption to the child in changing (~~foster care~~) placements. Nothing in this section shall be construed to require that a court hearing be held prior to changing a child's (~~foster care~~) placement nor to create any substantive custody rights (~~in the~~) for foster parents, relative caregivers, or other suitable persons with whom a child is placed.

(4) Whenever a child has been placed with and resided in the home of a foster family, relative caregiver, or other suitable person as described in RCW 13.34.130(1)(b) for twelve continuous months or

longer, the notice required under this section must be in writing and specify the reasons for changing the child's placement. The department shall report annually to the appropriate committees of the legislature regarding changes in placement for children who have resided for twelve continuous months or longer with a foster family, relative caregiver, or other suitable person, including the reasons for changing the placements of those children. The first report is due to the legislature not later than September 1, 2011, and a final report is due September 1, 2015.

Sec. 3. RCW 13.34.105 and 2008 c 267 s 13 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;

(d) To report to the court information on the legal status of a child's membership in any Indian tribe or band;

(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

(f) To represent and be an advocate for the best interests of the child.

(2) When a child, in the course of a guardian ad litem's normal investigation and collection of information for the court, makes a disclosure of abuse or neglect, the guardian ad litem shall make a referral to child protective services pursuant to RCW 26.44.030.

(3) A guardian ad litem shall be deemed an officer of the court for the purpose of immunity from civil liability.

~~((3))~~ (4) Except for information or records specified in RCW 13.50.100(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))~~ (5) 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))~~ (6) The guardian ad litem shall release case information in accordance with the provisions of RCW 13.50.100.

NEW SECTION. Sec. 4. 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, 2010, in the omnibus appropriations act, section 2 of this act is null and void."

Correct the title.
and the same are herewith transmitted.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6730 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6730 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6730 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6804 with the following amendment(s): 6804 AMH GREE MORI 072

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.20A.890 and 2005 c 369 s 2 are each amended to read as follows:

(1) A program for (a) the prevention and treatment of problem and pathological gambling; and (b) the training of professionals in the identification and treatment of problem and pathological gambling is established within the department of social and health services, to be administered by a qualified person who has training and experience in problem gambling or the organization and administration of treatment services for persons suffering from problem gambling. The department may certify and contract with treatment facilities for any services provided under the program. The department shall track program participation and client outcomes.

(2) To receive treatment under subsection (1) of this section, a person must:

(a) Need treatment for problem or pathological gambling, or because of the problem or pathological gambling of a family member, but be unable to afford treatment; and

(b) Be targeted by the department of social and health services as being most amenable to treatment.

(3) Treatment under this section is available only to the extent of the funds appropriated or otherwise made available to the department of social and health services for this purpose. The department may solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, any tribal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies or any tribal government in making an application for any grant.

(4) The department may adopt rules establishing standards for the review and certification of treatment facilities under this program.

(5) The department of social and health services shall establish an advisory committee to assist it in designing, managing, and evaluating the effectiveness of the program established in this section. The advisory committee shall give due consideration in the design and management of the program that persons who hold licenses or contracts issued by the gambling commission, horse racing commission, and lottery commission are not excluded from,

or discouraged from, applying to participate in the program. The committee shall include, at a minimum, persons knowledgeable in the field of problem and pathological gambling and persons representing tribal gambling, privately owned nontribal gambling, and the state lottery.

~~((5))~~ (6) For purposes of this section, "pathological gambling" is a mental disorder characterized by loss of control over gambling, progression in preoccupation with gambling and in obtaining money to gamble, and continuation of gambling despite adverse consequences. "Problem gambling" is an earlier stage of pathological gambling which compromises, disrupts, or damages family or personal relationships or vocational pursuits.

NEW SECTION. Sec. 2. (1) The department of health shall develop recommendations regarding the credentialing of problem and pathological gambling treatment providers who were, prior to July 1, 2010, providing problem and pathological gambling treatment services as registered counselors under chapter 18.19 RCW.

(2) When developing its recommendations, the department shall:

(a) Consider, to the extent practicable, the criteria for sunrise review under RCW 18.120.010(2) and (3); and

(b) Solicit input from stakeholders, including, but not limited to, the department of social and health services, problem and pathological gambling treatment providers, chemical dependency professionals, and any other affected health professions.

(3) The department's recommendations shall, at a minimum, include:

(a) A determination of whether the scope of practice of an existing credential should be expanded to include problem and pathological gambling treatment services or whether a new credential for problem and pathological gambling treatment providers should be created; and

(b) Appropriate training, education, or examination requirements for problem and pathological gambling treatment providers.

(3) The department shall report its recommendations to the appropriate committees of the legislature no later than December 1, 2010.

NEW SECTION. Sec. 3. Section 1 of this act expires December 31, 2012."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 6804 and ask the House to recede therefrom.

Senators Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Kohl-Welles that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 6804 and ask the House to recede therefrom.

The motion by Senator Kohl-Welles carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 6804 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The House passed SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 6508 with the following amendment(s): 6508-S.E2 AMH ENGR H5513.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 4.20.020 and 2007 c 156 s 29 are each amended to read as follows:

(1) Every ~~((such))~~ action under RCW 4.20.010 shall be for the benefit of the ~~((wife, husband))~~ spouse, state registered domestic partner, ~~((child))~~ or children, including stepchildren, of the person whose death shall have been so caused. If there ~~((be))~~ is no ~~((wife, husband))~~ spouse, state registered domestic partner, or ~~((such))~~ child ~~((or children, such)),~~ the action may be maintained for the benefit of:

(a) The parents ~~((sisters, or brothers, who may be dependent upon the deceased person for support, and who are resident within the United States at the time of his death))~~ of a deceased adult child if the parents are financially dependent upon the adult child for support or if the parents have had significant involvement in the adult child's life; or

(b) Sisters or brothers who are financially dependent upon the decedent for support if there is no spouse, state registered domestic partner, child, or parent.

In every such action the jury may ~~((give such))~~ award economic and noneconomic damages as ~~((;))~~ under all circumstances of the case ~~((;))~~ may to them seem just. In an action under RCW 4.20.010 that is based on a parent's significant involvement in an adult child's life, economic damages include any student loan balance that the parent may be obligated to repay as a result of acting as a cosigner or guarantor on the decedent's student loans, except for student loan balances that, under the terms of the loan, are eligible for a complete discharge upon the death of the borrower.

(2) For the purposes of this section:

(a) "Financially dependent for support" means substantial dependence based on the receipt of services that have an economic or monetary value, or substantial dependence based on actual monetary payments or contributions; and

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death. When determining if the parents have had significant involvement in the adult child's life, the court shall consider, but not be limited to, objective evidence of personal, verbal, written, or electronic contact with the adult child, and in-person interaction with the adult child during holidays, birthdays, and other events.

"**Sec. 2.** RCW 4.20.046 and 2008 c 6 s 409 are each amended to read as follows:

(1) All causes of action by a person or persons against another person or persons shall survive to the personal representatives of the former and against the personal representatives of the latter, whether ~~((such))~~ the actions arise on contract or otherwise, and whether or not ~~((such))~~ the actions would have survived at the common law or prior to the date of enactment of this section ~~((:—PROVIDED, HOWEVER, That))~~.

(2) In addition to recovering economic losses for the estate, the personal representative ~~((shall only be))~~ is entitled to recover on behalf of those beneficiaries identified under RCW 4.20.060 any noneconomic damages for pain and suffering, anxiety, emotional distress, or humiliation personal to and suffered by ~~((a))~~ the deceased ~~((on behalf of those beneficiaries enumerated in RCW 4.20.020, and))~~ in such amounts as determined by a jury to be just under all the circumstances of the case. Damages under this section are recoverable regardless of whether or not the death was occasioned by the injury that is the basis for the action.

(3) The liability of property of spouses or domestic partners held by them as community property and subject to execution in satisfaction

of a claim enforceable against such property so held shall not be affected by the death of either or both spouses or either or both domestic partners; and a cause of action shall remain an asset as though both claiming spouses or both claiming domestic partners continued to live despite the death of either or both claiming spouses or both claiming domestic partners.

~~((2))~~ (4) Where death or an injury to person or property, resulting from a wrongful act, neglect or default, occurs simultaneously with or after the death of a person who would have been liable therefor if his or her death had not occurred simultaneously with such death or injury or had not intervened between the wrongful act, neglect or default and the resulting death or injury, an action to recover damages for such death or injury may be maintained against the personal representative of such person.

"**Sec. 3.** RCW 4.20.060 and 2007 c 156 s 30 are each amended to read as follows:

(1) No action for a personal injury to any person occasioning death shall abate, nor shall ~~((such))~~ the right of action ~~((determine))~~ terminate, by reason of ~~((such))~~ the death ~~((;))~~ if ~~((such))~~ the person has a surviving ~~((spouse, state registered domestic partner, or child living, including stepchildren, or leaving no surviving spouse, state registered domestic partner, or such children, if there is dependent upon the deceased for support and resident within the United States at the time of decedent's death, parents, sisters, or brothers; but such action may be prosecuted, or commenced and prosecuted, by the executor or administrator))~~ beneficiary in whose favor the action may be brought under subsection (2) of this section.

(2) An action under this section shall be brought by the personal representative of the deceased ~~((;))~~ in favor of ~~((such))~~ the surviving spouse or state registered domestic partner ~~((, or in favor of the surviving spouse or state registered domestic partner))~~ and ~~((such))~~ children ~~((, or if))~~. If there is no surviving spouse ~~((;))~~, state registered domestic partner, ~~((in favor of such child))~~ or children, ~~((or if no surviving spouse, state registered domestic partner, or such child or children, then))~~ the action shall be brought in favor of the decedent's:

(a) Parents ~~((sisters, or brothers who may be dependent upon such person for support, and resident in the United States at the time of decedent's death))~~ if the parents are financially dependent upon the decedent for support or if the parents have had significant involvement in the decedent's life; or

(b) Sisters or brothers who are financially dependent upon the decedent for support if there is no spouse, state registered domestic partner, child, or parent.

(3) In addition to recovering economic losses, the persons identified in subsection (2) of this section are entitled to recover any noneconomic damages personal to and suffered by the decedent including, but not limited to, damages for the decedent's pain and suffering, anxiety, emotional distress, or humiliation, in such amounts as determined by a jury to be just under all the circumstances of the case.

(4) For the purposes of this section:

(a) "Financially dependent for support" means substantial dependence based on the receipt of services that have an economic or monetary value, or substantial dependence based on actual monetary payments or contributions; and

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death. When determining if the parents have had significant involvement in the child's life, the court shall consider, but not be limited to, objective evidence of personal, verbal, written, or electronic contact with the child, and in-person interaction with the child during holidays, birthdays, and other events.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

Sec. 4. RCW 4.24.010 and 1998 c 237 s 2 are each amended to read as follows:

(1) A ~~((mother or father, or both,))~~ parent who has regularly contributed to the support of his or her minor child, ~~((and the mother or father, or both, of a child on whom either, or both, are))~~ or a parent who is financially dependent on a minor child for support or who has had significant involvement in the minor child's life, may maintain or join ~~((as a party))~~ an action as plaintiff for the injury or death of the child.

(2) Each parent, separately from the other parent, is entitled to recover for his or her own loss regardless of marital status, even though this section creates only one cause of action~~((but if the parents of the child are not married, are separated, or not married to each other damages may be awarded to each plaintiff separately, as the trier of fact finds just and equitable))~~.

(3) If one parent brings an action under this section and the other parent is not named as a plaintiff, notice of the institution of the suit, together with a copy of the complaint, shall be served upon the other parent: PROVIDED, That notice shall be required only if parentage has been duly established.

Such notice shall be in compliance with the statutory requirements for a summons. Such notice shall state that the other parent must join as a party to the suit within twenty days or the right to recover damages under this section shall be barred. Failure of the other parent to timely appear shall bar such parent's action to recover any part of an award made to the party instituting the suit.

(4) In ~~((such))~~ an action under this section, in addition to damages for medical, hospital, medication expenses, and loss of services and support, damages may be recovered for the loss of love and companionship of the child and for injury to or destruction of the parent-child relationship in such amount as, under all the circumstances of the case, may be just.

(5) For the purposes of this section:

(a) "Financially dependent for support" means substantial dependence based on the receipt of services that have an economic or monetary value, or substantial dependence based on actual monetary payments or contributions; and

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death. When determining if the parents have had significant involvement in the child's life, the court shall consider, but not be limited to, objective evidence of personal, verbal, written, or electronic contact with the child, and in-person interaction with the child during holidays, birthdays, and other events.

Sec. 5. RCW 4.92.006 and 2002 c 332 s 10 are each amended to read as follows:

As used in this chapter:

(1) "Office" means the office of financial management.

(2) "Director" means the director of financial management.

(3) "Risk management division" means the division of the office of financial management that carries out the powers and duties under this chapter relating to claim filing, claims administration, and claims payment.

(4) "Risk manager" means the person supervising the risk management division.

(5) "Local government" means every unit of local government, both general purpose and special purpose, and includes, but is not limited to, counties, cities, towns, port districts, public utility districts, irrigation districts, metropolitan municipal corporations, conservation districts, and other political subdivisions, governmental subdivisions, municipal corporations, and quasimunicipal corporations.

NEW SECTION. Sec. 6. A new section is added to chapter 4.92 RCW to read as follows:

(1) The local government liability reimbursement account is created as a nonappropriated account in the custody of the state treasurer. Only the state director of risk management or the director's designee may authorize expenditures from the account. Expenditures from the account may be used only to reimburse local governments for judgments, settlements, and reasonable defense costs that are incurred by local governments as a result of this act.

(2) The state director of risk management may authorize expenditures from the local government liability reimbursement account when (a) the head or governing body of a local government certifies to the risk management division that a claim has been settled against a local government under this act; or (b) the clerk of the court has made and forwarded a certified copy of a final judgment in a court of competent jurisdiction and the director of risk management determines that the judgment was entered against a local government in a claim based on this act. Payment of a judgment shall be made to the clerk of the court for the benefit of the judgment creditors. Upon receipt of payment, the clerk shall satisfy the judgment against the local government.

Sec. 7. RCW 4.96.020 and 2009 c 433 s 1 are each amended to read as follows:

(1) The provisions of this section apply to claims for damages against all local governmental entities and their officers, employees, or volunteers, acting in such capacity, except that claims involving injuries from health care are governed solely by the procedures set forth in chapter 7.70 RCW and are exempt from this chapter.

(2) The governing body of each local governmental entity shall appoint an agent to receive any claim for damages made under this chapter. The identity of the agent and the address where he or she may be reached during the normal business hours of the local governmental entity are public records and shall be recorded with the auditor of the county in which the entity is located. All claims for damages against a local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, shall be presented to the agent within the applicable period of limitations within which an action must be commenced. A claim is deemed presented when the claim form is delivered in person or is received by the agent by regular mail, registered mail, or certified mail, with return receipt requested, to the agent or other person designated to accept delivery at the agent's office. The failure of a local governmental entity to comply with the requirements of this section precludes that local governmental entity from raising a defense under this chapter.

(3) For claims for damages presented after July 26, 2009, all claims for damages must be presented on the standard tort claim form that is maintained by the risk management division of the office of financial management, except as allowed under (c) of this subsection. The standard tort claim form must be posted on the office of financial management's web site.

(a) The standard tort claim form must, at a minimum, require the following information:

(i) The claimant's name, date of birth, and contact information;

(ii) A description of the conduct and the circumstances that brought about the injury or damage;

(iii) A description of the injury or damage;

(iv) A statement of the time and place that the injury or damage occurred;

(v) A listing of the names of all persons involved and contact information, if known;

(vi) A statement of the amount of damages claimed; and

(vii) A statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.

(b) The standard tort claim form must be signed either:

- (i) By the claimant, verifying the claim;
- (ii) Pursuant to a written power of attorney, by the attorney in fact for the claimant;
- (iii) By an attorney admitted to practice in Washington state on the claimant's behalf; or
- (iv) By a court-approved guardian or guardian ad litem on behalf of the claimant.

(c) Local governmental entities shall make available the standard tort claim form described in this section with instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity. If a local governmental entity chooses to also make available its own tort claim form in lieu of the standard tort claim form, the form:

(i) May require additional information beyond what is specified under this section, but the local governmental entity may not deny a claim because of the claimant's failure to provide that additional information;

(ii) Must not require the claimant's social security number; and

(iii) Must include instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity appointed to receive the claim.

(d) If any claim form provided by the local governmental entity fails to require the information specified in this section, or incorrectly lists the agent with whom the claim is to be filed, the local governmental entity is deemed to have waived any defense related to the failure to provide that specific information or to present the claim to the proper designated agent.

(e) Presenting either the standard tort claim form or the local government tort claim form satisfies the requirements of this chapter.

(f) The amount of damages stated on the claim form is not admissible at trial.

(4) No action subject to the claim filing requirements of this section shall be commenced against any local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim has first been presented to the agent of the governing body thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty calendar day period. For the purposes of the applicable period of limitations, an action commenced within five court days after the sixty calendar day period has elapsed is deemed to have been presented on the first day after the sixty calendar day period elapsed.

(5) With respect to the content of claims under this section and all procedural requirements in this section, this section must be liberally construed so that substantial compliance will be deemed satisfactory.

(6) When any claim for damages is filed against a local governmental entity based on this act, within ten days of the filing the local governmental entity must notify the state risk manager of the claim.

Sec. 8. RCW 36.18.020 and 2009 c 572 s 4, 2009 c 479 s 21, and 2009 c 417 s 3 are each reenacted and amended to read as follows:

(1) Revenue collected under this section is subject to division with the state under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070, except as provided in subsections (5) and (6) of this section.

(2) Clerks of superior courts shall collect the following fees for their official services:

(a) In addition to any other fee required by law, the party filing the first or initial document in any civil action, including, but not limited to an action for restitution, adoption, or change of name, and any party filing a counterclaim, cross-claim, or third-party claim in any such civil action, shall pay, at the time the document is filed, a

fee of two hundred dollars except, in an unlawful detainer action under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case initiating filing fee of forty-five dollars, or in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee. The forty-five dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

(b) Any party, except a defendant in a criminal case, filing the first or initial document on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when the document is filed, a fee of two hundred dollars.

(c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of two hundred dollars.

(d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of fifty-three dollars.

(e) For filing the notice of debt due for the compensation of a crime victim under RCW 7.68.120(2)(a) a fee of two hundred dollars.

(f) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first document therein, a fee of two hundred dollars.

(g) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96A.220, there shall be paid a fee of two hundred dollars.

(h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of two hundred dollars.

(i) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972: PROVIDED, That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(3) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

(4) No fee shall be collected when an abstract of judgment is filed by the county clerk of another county for the purposes of collection of legal financial obligations.

(5) Until July 1, 2011, in addition to the fees required by this section, clerks of superior courts shall collect the surcharges required by this subsection, which shall be remitted to the state treasurer for deposit in the judicial stabilization trust account:

(a) On filing fees under subsection (2)(b) of this section, a surcharge of twenty dollars; and

(b) On all other filing fees required by this section except for filing fees in subsection (2)(d) and (h) of this section, a surcharge of thirty dollars.

(6) In addition to other fees required by this section, until July 1, 2015, clerks of superior courts shall collect an additional surcharge of ten dollars on filing fees under subsection (2)(a) of this section, which shall be remitted to the state treasurer for deposit in the local government liability reimbursement account created in section 6 of this act.

Sec. 9. RCW 46.63.110 and 2009 c 479 s 39 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter it is immediately payable. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privilege until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the department has been notified that the court has entered into a new time payment or community restitution agreement with the person.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court shall notify the department of the delinquency. The department shall suspend the person's driver's license or driving privilege until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this

section, or until the person has entered into a payment plan under this section.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of two dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) Until July 1, 2015, in addition to any other penalties imposed under this section, and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed an additional penalty of five dollars. Revenue from this penalty shall be remitted to the state treasurer for deposit in the local government liability reimbursement account created in section 6 of this act.

(10) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

~~((10))~~ (11) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

NEW SECTION. Sec. 10. This act applies to all causes of action that are based on deaths occurring on or after the effective date of this act.

NEW SECTION. Sec. 11. (1) On December 1, 2011, and every December 1st thereafter, the risk management division within the office of financial management shall report to the house of representatives ways and means committee, the house of representatives judiciary committee, the senate ways and means committee, and the senate government operations and elections committee, or successor committees, on the incidents covered by this act that involve state agencies.

(2) On December 1, 2011, and every December 1st thereafter, each local government risk pool or local government risk management division, or the equivalent in local governments, shall report to the legislative body of the local government on the incidents covered by this act that involve the local government.

(3) This section expires December 2, 2016.

NEW SECTION. Sec. 12. 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."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Fairley moved that the Senate refuse to concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6508 and ask the House to recede therefrom.

POINT OF ORDER

Senator Brandland: "Mr. President, I rise to two points of order on Second Engrossed Substitute Senate Bill No. 6508. I believe that the House amendments to Second Engrossed Substitute Senate Bill No. 6508 are beyond the scope and object of the bill as it left the Senate in violation of Senate Rule 66 and I also believe the title of the bill is improper under Rule 25. I have some arguments to offer. It's about three pages, I'd be happy to read them but, if you like, I'll submit them if you like."

PARLIAMENTARY INQUIRY

Senator Fairley: "I've asked us not to concur to those amendments so how can you object to them if we're not concurring?"

REPLY BY THE PRESIDENT

President Owen: "Senator Fairley, there's two ways of to dispose of amendments. One is, as you stated, ask them to recede and the other is to have them ruled upon as Senator Brandland has requested."

Senator Gordon spoke against the point of order.

MOTION

On motion of Senator Eide, further consideration of Second Engrossed Substitute Senate Bill No. 6508 was deferred and the bill held its place on the calendar.

MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6344 with the following amendment(s): 6344-S AMH SGTA REIL 095

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 42.17.640 and 2006 c 348 s 1 are each amended to read as follows:

(1) The contribution limits in this section apply to:

(a) Candidates for state legislative office;

(b) Candidates for state office other than state legislative office;

(c) Candidates for county office(~~in a county that has over two hundred thousand registered voters~~);

(d) Candidates for special purpose district office if that district is authorized to provide freight and passenger transfer and terminal facilities and that district has over two hundred thousand registered voters;

(e) Candidates for city council office;

(f) Candidates for mayoral office;

(g) Persons holding an office in (a) through ~~((f))~~(f) of this subsection against whom recall charges have been filed or to a political committee having the expectation of making expenditures in support of the recall of a person holding the office;

~~((f))~~ (h) Caucus political committees;

~~((g))~~ (i) Bona fide political parties.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a state legislative office, ~~((or))~~ county office, city council office, or mayoral office that in the aggregate exceed ~~((seven))~~ eight hundred dollars or to a candidate for a public office in a special purpose district or a state office other than a state legislative office that in the aggregate exceed one thousand ~~((four))~~ six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions to candidates subject to the limits in this section made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions to candidates subject to the limits in this section made with respect to a general election may not be made after the final day of the applicable election cycle.

(3) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official, a county official, a city official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, county official, city official, or public official in a special purpose district during a recall campaign that in the aggregate exceed ~~((seven))~~ eight hundred dollars if for a state legislative office, ~~((or))~~ county office, or city office, or one thousand ~~((four))~~ six hundred dollars if for a special purpose district office or a state office other than a state legislative office.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

contributions to a candidate during an election cycle that in the aggregate exceed (i) ~~((seventy))~~ eighty cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ~~((thirty-five))~~ forty cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(5)(a) Notwithstanding subsection (3) of this section, no bona fide political party or caucus political committee may make contributions to a state official, county official, city official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, county official, city official, or a public official in a special purpose district during a recall campaign that in the aggregate exceed (i) ~~((seventy))~~ eighty cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No official holding an office specified in subsection (1) of this section against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of the official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(6) For purposes of determining contribution limits under subsections (4) and (5) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(7) Notwithstanding subsections (2) through (5) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed ~~((seven))~~ eight hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed ~~((three))~~ four thousand ~~((five-hundred))~~ dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(8) For the purposes of RCW 42.17.640 through 42.17.790, a contribution to the authorized political committee of a candidate or of an official specified in subsection (1) of this section against whom recall charges have been filed is considered to be a contribution to the candidate or official.

(9) A contribution received within the twelve-month period after a recall election concerning an office specified in subsection (1) of this section is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(10) The contributions allowed by subsection (3) of this section are in addition to those allowed by subsection (2) of this section, and the contributions allowed by subsection (5) of this section are in addition to those allowed by subsection (4) of this section.

(11) RCW 42.17.640 through 42.17.790 apply to a special election conducted to fill a vacancy in an office specified in subsection (1) of this section. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(12) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a state office candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(13) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate specified in subsection (1) of this section, or an official specified in subsection (1) of this section against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of an official specified in subsection (1) of this section if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the official.

(14) No person may accept contributions that exceed the contribution limitations provided in this section.

(15) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; or

(b) An expenditure by a political committee for its own internal organization or fund raising without direct association with individual candidates."

Correct the title
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McDermott moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6344.
Senator McDermott spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McDermott that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6344.

The motion by Senator McDermott carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6344 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6344, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6344, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 11; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Roach and Stevens

Excused: Senators Brown, Haugen and McCaslin

SUBSTITUTE SENATE BILL NO. 6344, 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 2, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6593 with the following amendment(s): 6593 AMH ELCS H5337.3

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.215.020 and 2007 c 394 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To serve as the state lead agency for Part C of the federal individuals with disabilities education act (IDEA);

(f) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

~~((f))~~ (g) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

~~((g))~~ (h) To work cooperatively and in coordination with the early learning council;

~~((h))~~ (i) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs; and

~~((i))~~ (j) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

Sec. 2. RCW 70.198.020 and 2009 c 381 s 33 are each amended to read as follows:

(1) There is established an advisory council in the department of social and health services for the purpose of advancing the development of a comprehensive and effective statewide system to provide prompt and effective early interventions for children in the state who are deaf or hard of hearing and their families.

(2) Members of the advisory council shall have training, experience, or interest in hearing loss in children. Membership shall include, but not be limited to, the following: Pediatricians; audiologists; teachers of the deaf and hard of hearing; parents of children who are deaf or hard of hearing; a representative from the Washington state center for childhood deafness and hearing loss; and representatives of the ~~((infant toddler early intervention))~~ early support for infants and toddlers program in the department of ~~((social and health services))~~ early learning, the department of health, and the office of the superintendent of public instruction.

NEW SECTION. Sec. 3. (1) All powers, duties, and functions of the department of social and health services pertaining to administration of the infant and toddler early intervention program are transferred to the department of early learning. The program shall be renamed the early support for infants and toddlers program.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of social and health services pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of early learning. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of social and health services in carrying out the powers, functions, and duties transferred shall be made available to the department of early learning. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of early learning.

(b) Any appropriations made to the department of social and health services for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of early learning.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of social and health services engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of early learning. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of early learning to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of social and health services pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

department of early learning. All existing contracts and obligations shall remain in full force and shall be performed by the department of early learning.

(5) The transfer of the powers, duties, functions, and personnel of the department of social and health services shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of social and health services assigned to the department of early learning under this section whose positions are within an existing bargaining unit description at the department of early learning shall become a part of the existing bargaining unit at the department of early learning and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

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

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Gordon moved that the Senate concur in the House amendment(s) to Senate Bill No. 6593.

Senator Gordon spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Gordon that the Senate concur in the House amendment(s) to Senate Bill No. 6593.

The motion by Senator Gordon carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6593 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6593, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6593, 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 Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SENATE BILL NO. 6593, 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, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6308 with the following amendment(s): 6308 AMH KIRB SILV 057

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that there have been ongoing, egregious examples of certain residents of the special commitment center having illegal child pornography, other prohibited pornography, and other banned materials on their computers. The legislature also finds that activities at the special commitment center must be designed and implemented to meet the treatment goals of the special commitment center, and proper and appropriate computer usage is one such activity. The legislature also finds that by linking computer usage to treatment plans, residents are less likely to have prohibited materials on their computers and are more likely to successfully complete their treatment plans. Therefore, the legislature finds that residents' computer usage in compliance with conditions placed on computer usage is essential to achieving their therapeutic goals. If residents' usage of computers is not in compliance or is not related to meeting their treatment goals, computer usage will be limited in order to prevent or reduce residents' access to prohibited materials.

Sec. 2. RCW 71.09.080 and 2009 c 409 s 7 are each amended to read as follows:

(1) Any person subjected to restricted liberty as a sexually violent predator pursuant to this chapter shall not forfeit any legal right or suffer any legal disability as a consequence of any actions taken or orders made, other than as specifically provided in this chapter, or as otherwise authorized by law.

(2) (a) Any person committed or detained pursuant to this chapter shall be prohibited from possessing or accessing a personal computer if the resident's individualized treatment plan states that access to a computer is harmful to bringing about a positive response to a specific and certain phase or course of treatment.

(b) A person who is prohibited from possessing or accessing a personal computer under (a) of this subsection (2) shall be permitted to access a limited functioning personal computer capable of word processing and limited data storage on the computer only that does not have: (i) Internet access capability; (ii) an optical drive, external drive, universal serial bus port, or similar drive capability; or (iii) the capability to display photographs, images, videos, or motion pictures, or similar display capability from any drive or port capability listed under (ii) of this subsection (2)(b).

(3) Any person committed pursuant to this chapter has the right to adequate care and individualized treatment. The department of social and health services shall keep records detailing all medical, expert, and professional care and treatment received by a committed person, and shall keep copies of all reports of periodic examinations made pursuant to this chapter. All such records and reports shall be made available upon request only to: The committed person, his or her attorney, the prosecuting attorney, the court, the protection and advocacy agency, or another expert or professional person who, upon proper showing, demonstrates a need for access to such records.

~~((3))~~(4) At the time a person is taken into custody or transferred into a facility pursuant to a petition under this chapter, the professional person in charge of such facility or his or her designee shall take reasonable precautions to inventory and safeguard the personal property of the persons detained or transferred. A copy of the inventory, signed by the staff member making it, shall be given to the person detained and shall, in addition, be open to inspection to any responsible relative, subject to limitations, if any, specifically imposed by the detained person. For purposes of this subsection, "responsible relative" includes the guardian, conservator, attorney, spouse, parent, adult child, or adult

brother or sister of the person. The facility shall not disclose the contents of the inventory to any other person without consent of the patient or order of the court.

~~((4))~~(5) Nothing in this chapter prohibits a person presently committed from exercising a right presently available to him or her for the purpose of obtaining release from confinement, including the right to petition for a writ of habeas corpus.

~~((5))~~(6) No indigent person may be conditionally released or unconditionally discharged under this chapter without suitable clothing, and the secretary shall furnish the person with such sum of money as is required by RCW 72.02.100 for persons without ample funds who are released from correctional institutions. As funds are available, the secretary may provide payment to the indigent persons conditionally released pursuant to this chapter consistent with the optional provisions of RCW 72.02.100 and 72.02.110, and may adopt rules to do so.

~~((6))~~(7) If a civil commitment petition is dismissed, or a trier of fact determines that a person does not meet civil commitment criteria, the person shall be released within twenty-four hours of service of the release order on the superintendent of the special commitment center, or later by agreement of the person who is the subject of the petition.

NEW SECTION. Sec. 3. 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."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Carrell moved that the Senate concur in the House amendment(s) to Senate Bill No. 6308.

Senator Regala 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 Senate Bill No. 6308.

The motion by Senator Carrell carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6308 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6308, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6308, 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 Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SENATE BILL NO. 6308, 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 Honeyford, Senator Roach was excused.

MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6611 with the following amendment(s): 6611-S AMH SIMP MOET 460 On page 2, line 30, after "plan" strike all material through "subarea" on line 31 and insert "~~((that does not modify the comprehensive plan policies and designations applicable to the subarea))~~. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Pridemore moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6611 and ask the House to recede therefrom.

Senator Pridemore spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Pridemore that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6611 and ask the House to recede therefrom.

The motion by Senator Pridemore carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6611 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6639 with the following amendment(s): 6639-S AMH HS H5394.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.030 and 2009 c 375 s 4 are each amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); or promoting pornography (chapter 9.68 RCW).

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

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

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

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

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

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

(21) "Drug offense" means:

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

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

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

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

(23) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree

(RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

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

(24) "Felony traffic offense" means:

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

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

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

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

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

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

(29) "Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.

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

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

(b) Assault in the second degree;

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

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

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

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating

liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

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

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

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

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

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

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

(w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under Title 9 or 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

~~((30))~~ (31) "Nonviolent offense" means an offense which is not a violent offense.

~~((31))~~ (32) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer convicted of an offense included in RCW 9.94A.501(1) and ordered by a superior court to probation under the supervision of the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

~~((32))~~ (33) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

~~((33))~~ (34) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

~~((34))~~ (35) "Persistent offender" is an offender who:

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

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection ~~((34))~~ (35)(b)(i); and

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

~~((35))~~ (36) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; or (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority.

~~((36))~~ (37) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

~~((37))~~ (38) "Public school" has the same meaning as in RCW 28A.150.010.

~~((38))~~ (39) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

~~((39))~~ (40) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

~~((40))~~ (41) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

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

~~((41))~~ (42) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

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

~~((42))~~ (43) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(12);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

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

~~((43))~~ (44) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

~~((44))~~ (45) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

~~((45))~~ (46) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

~~((46))~~ (47) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

~~((47))~~ (48) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

~~((48))~~ (49) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

~~((49))~~ (50) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

~~((50))~~ (51) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

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

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

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

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

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

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

~~((51))~~ (52) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

~~((52))~~ (53) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

~~((53))~~ (54) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

NEW SECTION. Sec. 2. A new section is added to chapter 9.94A RCW to read as follows:

(1) An offender is eligible for the parenting sentencing alternative if:

(a) The high end of the standard sentence range for the current offense is greater than one year;

(b) The offender has no prior or current conviction for a felony that is a sex offense or a violent offense;

(c) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(d) The offender signs any release of information waivers required to allow information regarding current or prior child welfare cases to be shared with the department and the court; and

(e) The offender has physical custody of his or her minor child or is a legal guardian or custodian with physical custody of a child under the age of eighteen at the time of the current offense.

(2) To assist the court in making its determination, the court may order the department to complete either a risk assessment report or a chemical dependency screening report as provided in RCW 9.94A.500, or both reports prior to sentencing.

(3) If the court is considering this alternative, the court shall request that the department contact the children's administration of the Washington state department of social and health services to determine if the agency has an open child welfare case or prior substantiated referral of abuse or neglect involving the offender or if the agency is aware of any substantiated case of abuse or neglect with a tribal child welfare agency involving the offender.

(a) If the offender has an open child welfare case, the department will provide the release of information waiver and request that the children's administration or the tribal child welfare agency provide a report to the court. The children's administration shall provide a report within seven business days of the request that includes, at the minimum, the following:

(i) Legal status of the child welfare case;

(ii) Length of time the children's administration has been involved with the offender;

(iii) Legal status of the case and permanent plan;

(iv) Any special needs of the child;

(v) Whether or not the offender has been cooperative with services ordered by a juvenile court under a child welfare case; and

(vi) If the offender has been convicted of a crime against a child.

(b) If a report is required from a tribal child welfare agency, the department shall attempt to obtain information that is similar to what is required for the report provided by the children's administration in a timely manner.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

(c) If the offender does not have an open child welfare case with the children's administration or with a tribal child welfare agency but has prior involvement, the department will obtain information from the children's administration on the number and type of past substantiated referrals of abuse or neglect and report that information to the court. If the children's administration has never had any substantiated referrals or an open case with the offender, the department will inform the court.

(4) If the sentencing court determines that the offender is eligible for a sentencing alternative under this section and that the sentencing alternative is appropriate and should be imposed, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of twelve months of community custody. The court shall consider the offender's criminal history when determining if the alternative is appropriate.

(5) When a court imposes a sentence of community custody under this section:

(a) The court may impose conditions as provided in RCW 9.94A.703 and may impose other affirmative conditions as the court considers appropriate.

(b) The department may impose conditions as authorized in RCW 9.94A.704 that may include, but are not limited to:

- (i) Parenting classes;
- (ii) Chemical dependency treatment;
- (iii) Mental health treatment;
- (iv) Vocational training;
- (v) Offender change programs;
- (vi) Life skills classes.

(c) The department shall report to the court if the offender commits any violations of his or her sentence conditions.

(6) The department shall provide the court with quarterly progress reports regarding the offender's progress in required programming, treatment, and other supervision conditions. When an offender has an open child welfare case, the department will seek to coordinate services with the children's administration.

(7)(a) The court may bring any offender sentenced under this section back into court at any time during the period of community custody on its own initiative to evaluate the offender's progress in treatment, or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the conditions of community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody, if the offender violates the conditions or requirements of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served in confinement under this section.

Sec. 3. RCW 9.94A.501 and 2009 c 376 s 2 are each amended to read as follows:

(1) The department shall supervise every offender convicted of a misdemeanor or gross misdemeanor offense who is sentenced to probation in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, for an offense included in (a) and (b) of this subsection. The superior court shall order probation for:

(a) Offenders convicted of fourth degree assault, violation of a domestic violence court order pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145, and who also have a prior conviction for one or more of the following:

- (i) A violent offense;
- (ii) A sex offense;

(iii) A crime against a person as provided in RCW 9.94A.411;

(iv) Fourth degree assault; or

(v) Violation of a domestic violence court order; and

(b) Offenders convicted of:

(i) Sexual misconduct with a minor second degree;

(ii) Custodial sexual misconduct second degree;

(iii) Communication with a minor for immoral purposes; and

(iv) Failure to register pursuant to RCW 9A.44.130.

(2) Misdemeanor and gross misdemeanor offenders supervised by the department pursuant to this section shall be placed on community custody.

(3) The department shall supervise every felony offender sentenced to community custody whose risk assessment, conducted pursuant to subsection (6) of this section, classifies the offender as one who is at a high risk to reoffend.

(4) Notwithstanding any other provision of this section, the department shall supervise an offender sentenced to community custody regardless of risk classification if the offender:

(a) Has a current conviction for a sex offense or a serious violent offense as defined in RCW 9.94A.030;

(b) Has been identified by the department as a dangerous mentally ill offender pursuant to RCW 72.09.370;

(c) Has an indeterminate sentence and is subject to parole pursuant to RCW 9.95.017;

(d) Was sentenced under RCW 9.94A.650, 9.94A.660, section 2 of this act, or 9.94A.670; or

(e) Is subject to supervision pursuant to RCW 9.94A.745.

(5) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody or any probationer unless the offender or probationer is one for whom supervision is required under subsection (1), (2), (3), or (4) of this section.

(6) The department shall conduct a risk assessment for every felony offender sentenced to a term of community custody who may be subject to supervision under this section.

Sec. 4. RCW 9.94A.505 and 2009 c 389 s 1 are each amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

(ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

(iii) RCW 9.94A.570, relating to persistent offenders;

(iv) RCW 9.94A.540, relating to mandatory minimum terms;

(v) RCW 9.94A.650, relating to the first-time offender waiver;

(vi) RCW 9.94A.660, relating to the drug offender sentencing alternative;

(vii) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

(viii) Section 2 of this act, relating to the parenting sentencing alternative;

(ix) RCW 9.94A.507, relating to certain sex offenses;

~~((ix))~~ (x) RCW 9.94A.535, relating to exceptional sentences;

~~((x))~~ (xi) RCW 9.94A.589, relating to consecutive and concurrent sentences;

~~((xii))~~ (xii) RCW 9.94A.603, relating to felony driving while under the influence of intoxicating liquor or any drug and felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence

which may include not more than one year of confinement; community restitution work; a term of community custody under RCW 9.94A.702 not to exceed one year; and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement and a community custody term under RCW 9.94A.701 if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or community custody that exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(7) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(8) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.

(9) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

Sec. 5. RCW 9.94A.701 and 2009 c 375 s 5 are each amended to read as follows:

(1) If an offender is sentenced to the custody of the department for one of the following crimes, the court shall, in addition to the other terms of the sentence, sentence the offender to community custody for three years:

(a) A sex offense not sentenced under RCW 9.94A.507;

(b) A serious violent offense; or

(c) A violation of RCW 9A.44.130(1)(a) committed on or after June 7, 2006, when a court sentences the person to a term of confinement of one year or less.

(2) A court shall, in addition to the other terms of the sentence, sentence an offender to community custody for eighteen months when the court sentences the person to the custody of the department for a violent offense that is not considered a serious violent offense.

(3) A court shall, in addition to the other terms of the sentence, sentence an offender to community custody for one year when the court sentences the person to the custody of the department for:

(a) Any crime against persons under RCW 9.94A.411(2);

(b) An offense involving the unlawful possession of a firearm under RCW 9.41.040, where the offender is a criminal street gang member or associate; or

(c) A felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000.

(4) If an offender is sentenced under the drug offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.660.

(5) If an offender is sentenced under the special ~~((sexual [sex]))~~ sex offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.670.

(6) If an offender is sentenced to a work ethic camp, the court shall impose community custody as provided in RCW 9.94A.690.

(7) If an offender is sentenced under the parenting sentencing alternative, the court shall impose a term of community custody as provided in section 2 of this act.

(8) If a sex offender is sentenced as a nonpersistent offender pursuant to RCW 9.94A.507, the court shall impose community custody as provided in that section.

~~((8))~~ (9) The term of community custody specified by this section shall be reduced by the court whenever an offender's standard range term of confinement in combination with the term of community custody exceeds the statutory maximum for the crime as provided in RCW 9A.20.021.

Sec. 6. RCW 9.94A.728 and 2009 c 455 s 2, 2009 c 441 s 1, and 2009 c 399 s 1 are each reenacted and amended to read as follows:

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

(1) An offender may earn early release time as authorized by RCW 9.94A.729;

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

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

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

(ii) The offender poses a low risk to the community because he or she is currently physically incapacitated due to age or the medical condition or is expected to be so at the time of release; and

(iii) It is expected that granting the extraordinary medical placement will result in a cost savings to the state.

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

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

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

(e) Persistent offenders are not eligible for extraordinary medical placement;

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

(5) No more than the final six months of the offender's term of confinement may be served in partial confinement designed to aid the offender in finding work and reestablishing himself or herself in the community or no more than the final twelve months of the offender's term of confinement may be served in partial confinement as part of the parenting program in section 8 of this act. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

(6) The governor may pardon any offender;

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

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

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

(9) Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540.

Sec. 7. RCW 9.94A.729 and 2009 c 455 s 3 are each amended to read as follows:

(1)(a) The term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and adopted by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits.

(b) Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time. The department may approve a jail certification from a correctional agency that calculates earned release time based on the actual amount of confinement time served by the offender before sentencing when an erroneous calculation of confinement time served by the offender before sentencing appears on the judgment and sentence.

(2) An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(3) An offender may earn early release time as follows:

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

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

(c) An offender is qualified to earn up to fifty percent of aggregate earned release time if he or she:

(i) Is not classified as an offender who is at a high risk to reoffend as provided in subsection (4) of this section;

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

(A) A sex offense;

(B) A violent offense;

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

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

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

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

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

(iii) Has no prior conviction for the offenses listed in (c)(ii) of this subsection;

(iv) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(v) Has not committed a new felony after July 22, 2007, while under community custody.

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

(4) The department shall perform a risk assessment of each offender who may qualify for earned early release under subsection (3)(c) of this section utilizing the risk assessment tool recommended by the Washington state institute for public policy. Subsection (3)(c) of this section does not apply to offenders convicted after July 1, 2010.

(5)(a) A person who is eligible for earned early release as provided in this section and who is convicted of a sex offense, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, shall be transferred to community custody in lieu of earned release time;

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

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

(d) If the department is unable to approve the offender's release plan, the department may do one or more of the following:

(i) Transfer an offender to partial confinement in lieu of earned early release for a period not to exceed three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in RCW 9.94A.728(5);

(ii) Provide rental vouchers to the offender for a period not to exceed three months if rental assistance will result in an approved release plan. The voucher must be provided in conjunction with additional transition support programming or services that enable an offender to participate in services including, but not limited to, substance abuse treatment, mental health treatment, sex offender treatment, educational programming, or employment programming;

(e) For each offender who is the recipient of a rental voucher, the department shall include, concurrent with the data that the department otherwise obtains and records, the housing status of the offender for the duration of the offender's supervision.

(6) An offender serving a term of confinement imposed under RCW 9.94A.670(5)(a) is not eligible for earned release credits under this section.

NEW SECTION. Sec. 8. A new section is added to chapter 9.94A RCW to read as follows:

For offenders not sentenced under section 2 of this act, but otherwise eligible under this section, no more than the final twelve months of the offender's term of confinement may be served in partial confinement as home detention as part of the parenting program developed by the department.

(1) The secretary may transfer an offender from a correctional facility to home detention in the community if it is determined that the parenting program is an appropriate placement and when all of the following conditions exist:

(a) The offender is serving a sentence in which the high end of the range is greater than one year;

(b) The offender has no current conviction for a felony that is a sex offense or a violent offense;

(c) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(d) The offender signs any release of information waivers required to allow information regarding current or prior child welfare cases to be shared with the department and the court;

(e) The offender:

(i) Has physical or legal custody of a minor child;

(ii) Has a proven, established, ongoing, and substantial relationship with his or her minor child that existed prior to the commission of the current offense; or

(iii) Is a legal guardian of a child that was under the age of eighteen at the time of the current offense; and

(f) The department determines that such a placement is in the best interests of the child.

(2) When the department is considering partial confinement as part of the parenting program for an offender, the department shall inquire of the individual and the children's administration with the Washington state department of social and health services whether the agency has an open child welfare case or prior substantiated referral for abuse or neglect involving the offender. If the children's administration or a tribal jurisdiction has an open child welfare case, the department will seek input from the children's administration or the involved tribal jurisdiction as to: (a) The status of the child welfare case; and (b) recommendations regarding placement of the offender and services required of the department and the court governing the individual's child welfare case. The department and its officers, agents, and employees are not liable for the acts of offenders participating in the parenting program unless the department or its officers, agents, and employees acted with willful and wanton disregard.

(3) All offenders placed on home detention as part of the parenting program shall provide an approved residence and living arrangement prior to transfer to home detention.

(4) While in the community on home detention as part of the parenting program, the department shall:

(a) Require the offender to be placed on electronic home monitoring;

(b) Require the offender to participate in programming and treatment that the department determines is needed;

(c) Assign a community corrections officer who will monitor the offender's compliance with conditions of partial confinement and programming requirements; and

(d) If the offender has an open child welfare case with the children's administration, collaborate and communicate with the identified social worker in the provision of services.

(5) The department has the authority to return any offender serving partial confinement in the parenting program to total confinement if the offender is not complying with sentence requirements.

Sec. 9. RCW 9.94A.734 and 2007 c 199 s 9 are each amended to read as follows:

(1) Home detention may not be imposed for offenders convicted of the following offenses, unless imposed as partial confinement in the department's parenting program under section 8 of this act:

(a) A violent offense;

(b) Any sex offense;

(c) Any drug offense;

(d) Reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050;

(e) Assault in the third degree as defined in RCW 9A.36.031;

(f) Assault of a child in the third degree;

(g) Unlawful imprisonment as defined in RCW 9A.40.040; or

(h) Harassment as defined in RCW 9A.46.020.

Home detention may be imposed for offenders convicted of possession of a controlled substance under RCW 69.50.4013 or forged prescription for a controlled substance under RCW 69.50.403 if the offender fulfills the participation conditions set forth in this section and is monitored for drug use by a treatment alternatives to street crime program or a comparable court or agency-referred program.

(2) Home detention may be imposed for offenders convicted of burglary in the second degree as defined in RCW 9A.52.030 or residential burglary conditioned upon the offender:

(a) Successfully completing twenty-one days in a work release program;

(b) Having no convictions for burglary in the second degree or residential burglary during the preceding two years and not more than two prior convictions for burglary or residential burglary;

(c) Having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense;

(d) Having no prior charges of escape; and

(e) Fulfilling the other conditions of the home detention program.

(3) Home detention may be imposed for offenders convicted of taking a motor vehicle without permission in the second degree as defined in RCW 9A.56.075, theft of a motor vehicle as defined under RCW 9A.56.065, or possession of a stolen motor vehicle as defined under RCW 9A.56.068 conditioned upon the offender:

(a) Having no convictions for taking a motor vehicle without permission, theft of a motor vehicle or possession of a stolen motor vehicle during the preceding five years and not more than two prior convictions for taking a motor vehicle without permission, theft of a motor vehicle or possession of a stolen motor vehicle;

(b) Having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense;

(c) Having no prior charges of escape; and

(d) Fulfilling the other conditions of the home detention program.

(4) Participation in a home detention program shall be conditioned upon:

(a) The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, or the offender performing parental duties to offspring or minors normally in the custody of the offender;

(b) Abiding by the rules of the home detention program; and

(c) Compliance with court-ordered legal financial obligations.

The home detention program may also be made available to offenders whose charges and convictions do not otherwise disqualify them if medical or health-related conditions, concerns or treatment would be better addressed under the home detention program, or where the health and welfare of the offender, other inmates, or staff would be jeopardized by the offender's incarceration. Participation in the home detention program for medical or health-related reasons is conditioned on the offender abiding by the rules of the home detention program and complying with court-ordered restitution.

Sec. 10. RCW 9.94A.190 and 2009 c 28 s 5 are each amended to read as follows:

(1) A sentence that includes a term or terms of confinement totaling more than one year shall be served in a facility or institution

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

operated, or utilized under contract, by the state, or in home detention pursuant to section 8 of this act. Except as provided in subsection (3) or (5) of this section, a sentence of not more than one year of confinement shall be served in a facility operated, licensed, or utilized under contract, by the county, or if home detention or work crew has been ordered by the court, in the residence of either the offender or a member of the offender's immediate family.

(2) If a county uses a state partial confinement facility for the partial confinement of a person sentenced to confinement for not more than one year, the county shall reimburse the state for the use of the facility as provided in this subsection. The office of financial management shall set the rate of reimbursement based upon the average per diem cost per offender in the facility. The office of financial management shall determine to what extent, if any, reimbursement shall be reduced or eliminated because of funds provided by the legislature to the department for the purpose of covering the cost of county use of state partial confinement facilities. The office of financial management shall reestablish reimbursement rates each even-numbered year.

(3) A person who is sentenced for a felony to a term of not more than one year, and who is committed or returned to incarceration in a state facility on another felony conviction, either under the indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter shall serve all terms of confinement, including a sentence of not more than one year, in a facility or institution operated, or utilized under contract, by the state, consistent with the provisions of RCW 9.94A.589.

(4) Notwithstanding any other provision of this section, a sentence imposed pursuant to RCW 9.94A.660 which has a standard sentence range of over one year, regardless of length, shall be served in a facility or institution operated, or utilized under contract, by the state.

(5) Sentences imposed pursuant to RCW 9.94A.507 shall be served in a facility or institution operated, or utilized under contract, by the state.

Sec. 11. RCW 9.94A.6332 and 2009 c 375 s 14 are each amended to read as follows:

The procedure for imposing sanctions for violations of sentence conditions or requirements is as follows:

(1) If the offender was sentenced under the drug offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.660.

(2) If the offender was sentenced under the special ~~((sexual [sex]))~~ sex offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.670.

(3) If the offender was sentenced under the parenting sentencing alternative, any sanctions shall be imposed by the department or by the court pursuant to section 2 of this act.

~~((4))~~ (4) If a sex offender was sentenced pursuant to RCW 9.94A.507, any sanctions shall be imposed by the board pursuant to RCW 9.95.435.

~~((4))~~ (5) In any other case, if the offender is being supervised by the department, any sanctions shall be imposed by the department pursuant to RCW 9.94A.737. If a probationer is being supervised by the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, upon receipt of a violation hearing report from the department, the court retains any authority that those statutes provide to respond to a probationer's violation of conditions.

~~((5))~~ (6) If the offender is not being supervised by the department, any sanctions shall be imposed by the court pursuant to RCW 9.94A.6333.

Sec. 12. RCW 9.94A.633 and 2009 c 375 s 12 are each amended to read as follows:

(1)(a) An offender who violates any condition or requirement of a sentence may be sanctioned with up to sixty days' confinement for each violation.

(b) In lieu of confinement, an offender may be sanctioned with work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.

(2) If an offender was under community custody pursuant to one of the following statutes, the offender may be sanctioned as follows:

(a) If the offender was transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.728(2), the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(b) If the offender was sentenced under the drug offender sentencing alternative set out in RCW 9.94A.660, the offender may be sanctioned in accordance with that section.

(c) If the offender was sentenced under the parenting sentencing alternative set out in section 2 of this act, the offender may be sanctioned in accordance with that section.

~~((d))~~ (d) If the offender was sentenced under the special ~~((sexual [sex]))~~ sex offender sentencing alternative set out in RCW 9.94A.670, the suspended sentence may be revoked and the offender committed to serve the original sentence of confinement.

~~((d))~~ (e) If the offender was sentenced to a work ethic camp pursuant to RCW 9.94A.690, the offender may be reclassified to serve the unexpired term of his or her sentence in total confinement.

~~((e))~~ (f) If a sex offender was sentenced pursuant to RCW 9.94A.507, the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(3) If a probationer is being supervised by the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be sanctioned pursuant to subsection (1) of this section. The department shall have authority to issue a warrant for the arrest of an offender who violates a condition of community custody, as provided in RCW 9.94A.716. Any sanctions shall be imposed by the department pursuant to RCW 9.94A.737. The department shall provide a copy of the violation hearing report to the sentencing court in a timely manner. Nothing in this subsection is intended to limit the power of the sentencing court to respond to a probationer's violation of conditions."

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 Substitute Senate Bill No. 6639.

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. 6639.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6639 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6639, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6639, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 1; Excused, 2.

Voting yeas: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senator Honeyford

Absent: Senator Tom

Excused: Senators McCaslin and Roach

SUBSTITUTE SENATE BILL NO. 6639, 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 3, 2010

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 6679 with the following amendment(s): 6679-S2 AMH APPG H5443.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.210.040 and 1998 c 109 s 3 are each amended to read as follows:

(1) The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 (~~shall have~~) has the powers granted under chapter 24.03 RCW. In exercising such powers, the center may:

(a) Solicit and accept grants, contributions, and any other financial assistance from the federal government, federal agencies, and any other sources to carry out its purposes;

(b) Make loans or provide loan guarantees on loans made by financial institutions to Washington businesses with annual sales of two hundred million dollars or less for the purpose of financing exports of goods or services by those businesses to buyers in foreign countries and for the purpose of financing business growth to accommodate increased export sales. Loans or loan guarantees made under the authority of this section may only be considered upon a financial institution's assurance that such loan or loan guarantee is otherwise not available;

(c) Provide assistance to businesses with annual sales of two hundred million dollars or less in obtaining loans and guarantees of loans made by financial institutions for the purpose of financing export of goods or services from the state of Washington;

~~((e))~~ (d) Provide export finance and risk mitigation counseling to Washington exporters with annual sales of two hundred million dollars or less, provided that such counseling is not practicably available from a Washington for-profit business. For such counseling, the center may charge reasonable fees as it determines are necessary;

~~((d))~~ (e) Provide assistance in obtaining export credit insurance or alternate forms of foreign risk mitigation to facilitate the export of goods and services from the state of Washington;

~~((e))~~ (f) Be available as a teaching resource to both public and private sponsors of workshops and programs relating to the

financing and risk mitigation aspects of exporting products and services from the state of Washington;

~~((f))~~ (g) Develop a comprehensive inventory of export-financing resources, both public and private, including information on resource applicability to specific countries and payment terms;

~~((g))~~ (h) Contract with the federal government and its agencies to become a program administrator for federally provided loan guarantee and export credit insurance programs; and

~~((h))~~ (i) Take whatever action may be necessary to accomplish the purposes set forth in this chapter.

(2) The center may not use any Washington state funds or funds which come from the public treasury of the state of Washington to make loans or to make any payment under a loan guarantee agreement. Under no circumstances may the center use any funds received under RCW 43.210.050 to make or assist in making any loan or to pay or assist in paying any amount under a loan guarantee agreement. Debts of the center shall be center debts only and may be satisfied only from the resources of the center. The state of Washington shall not in any way be liable for such debts.

(3) The small business export finance assistance center shall make every effort to seek nonstate funds for its continued operation.

(4) The small business export finance assistance center may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the small business export finance assistance center and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

Sec. 2. RCW 43.210.050 and 1998 c 245 s 84 are each amended to read as follows:

(1) The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 (~~shall~~) must enter into a contract under this chapter with the department of (~~community, trade, and economic development~~) commerce or its statutory successor.

(2) The contract (~~shall~~) under subsection (1) of this section must:

(a) Require the center to provide export assistance services(, consistent with RCW 43.210.070 and 43.210.100 through 43.210.120, shall);

(b) Have a duration of two years(, and shall);

(c) Require the center to aggressively seek to fund its continued operation from nonstate funds(, The contract shall also); and

(d) Require the center to report annually to the department on its success in obtaining nonstate funding. ((Upon expiration of the contract, any provisions within the contract applicable to the Pacific Northwest export assistance project shall be automatically renewed without change provided the legislature appropriates funds for administration of the small business export assistance center and the Pacific Northwest export assistance project. The provisions of the contract related to the Pacific Northwest export assistance project may be changed at any time if the director of the department of community, trade, and economic development or the president of the small business export finance assistance center present compelling reasons supporting the need for a contract change to the board of directors and a majority of the board of directors agrees to the changes. The department of agriculture shall be included in the contracting negotiations with the department of community, trade, and economic development and the small business export finance assistance center when the Pacific Northwest export assistance project provides export services to industrial sectors within the administrative domain of the Washington state department of agriculture.))

NEW SECTION. Sec. 3. A new section is added to chapter 43.210 RCW to read as follows:

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

Subject to the availability of amounts appropriated for this specific purpose, the small business export finance assistance center must:

(1) Develop a rural manufacturer export outreach program in conjunction with impact Washington. The program must provide outreach services to rural manufacturers in Washington to inform them of the importance of and opportunities in international trade, and to inform them of the export assistance programs available to assist these businesses to become exporters; and

(2) Develop export loan or loan guarantee programs in conjunction with the Washington economic development finance authority and the appropriate federal and private entities."

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 Second Substitute Senate Bill No. 6679.

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 Second Substitute Senate Bill No. 6679.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6679 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6679, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6679, 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 Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Roach

SECOND SUBSTITUTE SENATE BILL NO. 6679, 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

February 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6688 with the following amendment(s): 6688-S AMH SGTA OBRT 112

On page 2, line 27, after "within" strike "thirty" and insert "sixty"

On page 2, line 28, after "within" strike "fifteen" and insert "thirty"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6688.

The President declared the question before the Senate to be the motion by Senator Regala that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6688.

The motion by Senator Regala carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6688 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6688, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6688, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 11; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Holmquist, Honeyford, Morton, Parlette, Pflug, Schoesler and Stevens

Excused: Senators McCaslin and Roach

SUBSTITUTE SENATE BILL NO. 6688, 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

February 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6692 with the following amendment(s): 6692-S AMH TEC H5387.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.140.010 and 2009 c 281 s 1 are each amended to read as follows:

(1) Any county legislative authority of a county where a public utility district owns and operates a plant or system for the generation, transmission, and distribution of electric energy for sale within the county may construct, purchase, acquire, operate, and maintain ((a)) one facility within the county to generate electricity from biomass energy that is a renewable resource under RCW 19.285.030 or from biomass energy that is produced from lignin in spent pulping liquors or liquors derived from algae and other sources. The county legislative authority has the authority to regulate and control the use, distribution, sale, and price of the electricity produced from the biomass facility authorized under this section.

(2) For the purposes of this section:

(a) "County legislative authority" means the board of county commissioners or the county council; ((and))

(b) "Plant" means a natural gas-fueled, combined-cycle combustion turbine capable of generating at least two hundred forty megawatts of electricity; and

(c) "Public utility district" means a municipal corporation formed under chapter 54.08 RCW.

Sec. 2. RCW 54.44.020 and 2008 c 198 s 3 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, cities of the first class, public utility districts organized under chapter 54.08 RCW, and joint operating agencies organized under chapter 43.52 RCW, any such cities and public utility districts which operate electric generating facilities or distribution systems and any joint operating agency shall have power and authority to participate and enter into agreements with each other and with electrical companies which are subject to the jurisdiction of the Washington utilities and transportation commission or the public utility commissioner of Oregon, hereinafter called "regulated utilities", and with rural electric cooperatives, including generation and transmission cooperatives for the undivided ownership of any type of electric generating plants and facilities, including, but not limited to, nuclear and other thermal power generating plants and facilities and transmission facilities including, but not limited to, related transmission facilities, hereinafter called "common facilities", and for the planning, financing, acquisition, construction, operation and maintenance thereof. It shall be provided in such agreements that each city, public utility district, or joint operating agency shall own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction thereof and shall own and control a like percentage of the electrical output thereof.

(2) Cities of the first class, public utility districts organized under chapter 54.08 RCW, and joint operating agencies organized under chapter 43.52 RCW, shall have the power and authority to participate and enter into agreements for the undivided ownership of a coal-fired thermal electric generating plant and facility placed in operation before July 1, 1975, including related common facilities, and for the planning, financing, acquisition, construction, operation, and maintenance of the plant and facility. It shall be provided in such agreements that each city, public utility district, or joint operating agency shall own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by the city, district, or agency, for the acquisition and construction of the facility, and shall own and control a like percentage of the electrical output thereof. Cities of the first class, public utility districts, and joint operating agencies may enter into agreements under this subsection with each other, with regulated utilities, with rural electric cooperatives, with electric companies subject to the jurisdiction of the regulatory commission of any other state, and with any power marketer subject to the jurisdiction of the federal energy regulatory commission.

(3)(a) Except as provided in subsections (1) and (2) of this section, cities of the first class, counties with a biomass facility authorized under RCW 36.140.010, public utility districts organized under chapter 54.08 RCW, any cities that operate electric generating facilities or distribution systems, any joint operating agency organized under chapter 43.52 RCW, or any separate legal entity comprising two or more thereof organized under chapter 39.34 RCW shall, either directly or as co-owners of a separate legal entity, have power and authority to participate and enter into agreements described in (b) and (c) of this subsection with each other, and with any of the following, either directly or as co-owners of a separate legal entity:

(i) Any public agency, as that term is defined in RCW 39.34.020;

(ii) Electrical companies that are subject to the jurisdiction of the Washington utilities and transportation commission or the regulatory commission of any state; and

(iii) Rural electric cooperatives and generation and transmission cooperatives or any wholly owned subsidiaries of either rural electric cooperatives or generation and transmission cooperatives.

(b) Except as provided in (b)(i)(B) of this subsection (3), agreements may provide for:

(i)(A) The undivided ownership, or indirect ownership in the case of a separate legal entity, of common facilities that include any type of electric generating plant (~~(powered by)~~ generating an eligible renewable resource, as defined in RCW 19.285.030, and transmission facilities including, but not limited to, related transmission facilities, and for the planning, financing, acquisition, construction, operation, and maintenance thereof;

(B) For counties with a biomass facility authorized under RCW 36.140.010, the provisions in (b)(i)(A) of this subsection (3) are limited to the purposes of RCW 36.140.010; and

(ii) The formation, operation, and ownership of a separate legal entity that may own the common facilities.

(c) Agreements must provide that each city, county, public utility district, or joint operating agency:

(i) Owns a percentage of any common facility or a percentage of any separate legal entity equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction thereof; and

(ii) Owns and controls, or has a right to own and control in the case of a separate legal entity, a like percentage of the electrical output thereof.

(d) Any entity in which a public utility district participates, either directly or as co-owner of a separate legal entity, in constructing or developing a common facility pursuant to this subsection shall comply with the provisions of chapter 39.12 RCW.

(4) Each participant shall defray its own interest and other payments required to be made or deposited in connection with any financing undertaken by it to pay its percentage of the money furnished or value of property supplied by it for the planning, acquisition and construction of any common facility, or any additions or betterments thereto. The agreement shall provide a uniform method of determining and allocating operation and maintenance expenses of the common facility.

(5) Each city, county acting under RCW 36.140.010, public utility district, joint operating agency, regulated utility, and cooperatives participating in the direct or indirect ownership or operation of a common facility described in subsections (1) through (3) of this section shall pay all taxes chargeable to its share of the common facility and the electric energy generated thereby under applicable statutes as now or hereafter in effect, and may make payments during preliminary work and construction for any increased financial burden suffered by any county or other existing taxing district in the county in which the common facility is located, pursuant to agreement with such county or taxing district."

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 Substitute Senate Bill No. 6692.

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 Substitute Senate Bill No. 6692.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6692 by voice vote.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6692, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6692, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators McCaslin and Roach

SUBSTITUTE SENATE BILL NO. 6692, 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, 2010

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 6702 with the following amendment(s): 6702-S2 AMH DAMM H5567.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. INTENT. The legislature intends to provide for the operation of education programs for juvenile inmates incarcerated in adult jails.

The legislature finds that this chapter fully satisfies any constitutional duty to provide education programs for juvenile inmates in adult jails. The legislature further finds that biennial appropriations for education programs under this chapter amply provide for any constitutional duty to educate juvenile inmates in adult jails.

NEW SECTION. Sec. 2. EDUCATION PROGRAMS FOR JUVENILES IN ADULT JAILS. A program of education shall be made available for juvenile inmates by adult jail facilities and the several school districts of the state for persons under the age of eighteen years who have been incarcerated in any adult jail facilities operated under the authority of chapter 70.48 RCW. Each school district within which there is located an adult jail facility shall, singly or in concert with another school district pursuant to RCW 28A.335.160 and 28A.225.250 or chapter 39.34 RCW, conduct a program of education, including related student activities for inmates in adult jail facilities. School districts are not precluded from contracting with educational service districts, community and technical colleges, four-year institutions of higher education, or other qualified entities to provide all or part of these education programs. The division of duties, authority, and liabilities of the adult jail facilities and the several school districts of the state respecting the educational programs shall be as provided for in this chapter with regard to programs for juveniles in adult jail facilities.

NEW SECTION. Sec. 3. "ADULT JAIL FACILITY"--DEFINED. As used in this chapter, "adult jail facility" means an adult jail operated under the authority of chapter 70.48 RCW.

NEW SECTION. Sec. 4. DUTIES, AUTHORITY, AND RESPONSIBILITIES OF EDUCATION PROVIDER. (1) Except as otherwise provided for by contract under section 7 of this act, the duties and authority of a school district, educational service district, institution of higher education, or private contractor to provide for education programs under this chapter include:

(a) Employing, supervising, and controlling administrators, teachers, specialized personnel, and other persons necessary to conduct education programs, subject to security clearance by the adult jail facilities;

(b) Purchasing, leasing, renting, or providing textbooks, maps, audiovisual equipment paper, writing instruments, physical education equipment, and other instructional equipment, materials, and supplies deemed necessary by the provider of the education programs;

(c) Conducting education programs for inmates under the age of eighteen in accordance with program standards established by the superintendent of public instruction;

(d) Expending funds for the direct and indirect costs of maintaining and operating the program of education that are appropriated by the legislature and allocated by the superintendent of public instruction for the exclusive purpose of maintaining and operating education programs for juvenile inmates incarcerated in adult jail facilities, in addition to funds from federal and private grants, and bequests, and gifts made for the purpose of maintaining and operating the program of education; and

(e) Providing educational services to juvenile inmates within five school days of receiving notification from an adult jail facility within the district's boundaries that an individual under the age of eighteen has been incarcerated.

(2) The school district, educational service district, institution of higher education, or private contractor shall develop the curricula, instruction methods, and educational objectives of the education programs, subject to applicable requirements of state and federal law. For inmates who are under the age of eighteen when they commence the program and who have not met high school graduation requirements, such courses of instruction and school-related student activities as are provided by the school district for students outside of adult jail facilities shall be provided by the school district for students in adult jail facilities, to the extent that it is practical and judged appropriate by the school district and the administrator of the adult jail facility.

NEW SECTION. Sec. 5. SCHOOL DISTRICTS--ADDITIONAL AUTHORITY AND LIMITATION. School districts providing an education program to juvenile inmates in an adult jail facility, may:

(1) Award appropriate diplomas or certificates to juvenile inmates who successfully complete graduation requirements;

(2) Allow students eighteen years of age who have participated in an education program under this chapter to continue in the program, under rules adopted by the superintendent of public instruction; and

(3) Spend only funds appropriated by the legislature and allocated by the superintendent of public instruction for the exclusive purpose of maintaining and operating education programs under this chapter, including direct and indirect costs of maintaining and operating the education programs, and funds from federal and private grants, bequests, and gifts made for that purpose. School districts may not expend excess tax levy proceeds authorized for school district purposes to pay costs incurred under this chapter.

NEW SECTION. Sec. 6. SUPPORT OF EDUCATION PROGRAMS. To support each education program under this chapter, the adult jail facility and each superintendent or chief administrator of an adult jail facility shall:

(1) Provide necessary access to existing instructional and exercise spaces for the education program that are safe and secure;

(2) Provide equipment deemed necessary by the adult jail facility to conduct the education program;

(3) Maintain a clean and appropriate classroom environment that is sufficient to meet the program requirements and consistent with security conditions;

(4) Provide appropriate supervision of juvenile inmates consistent with security conditions to safeguard agents of the education providers and juvenile inmates while engaged in educational and related activities conducted under this chapter;

(5) Provide such other support services and facilities deemed necessary by the adult jail facilities to conduct the education program;

(6) Provide the available medical and mental health records necessary to a determination by the school district of the educational needs of the juvenile inmate; and

(7) Notify the school district within which the adult jail facility resides within five school days that an eligible juvenile inmate has been incarcerated in the adult jail facility.

NEW SECTION. Sec. 7. CONTRACT BETWEEN SCHOOL DISTRICTS AND ADULT JAIL FACILITIES. Each education provider under this chapter and the adult jail facility shall negotiate and execute a written contract for each school year, or such longer period as may be agreed to, that delineates the manner in which their respective duties and authority will be cooperatively performed and exercised, and any disputes and grievances resolved through mediation, and if necessary, arbitration. Any such contract may provide for the performance of duties by an education provider in addition to those in this chapter, including duties imposed upon the adult jail facility and its agents under section 6 of this act, if supplemental funding is available to fully pay the direct and indirect costs of these additional duties.

NEW SECTION. Sec. 8. EDUCATION SITE CLOSURES OR REDUCTION IN SERVICES--NOTICE. (1) By September 30, 2010, districts must, in coordination with adult jail facilities residing within their boundaries, submit an instructional service plan to the office of the superintendent of public instruction. Service plans must meet requirements stipulated in the rules developed in accordance with section 9 of this act, provided that (a) the rules shall not govern requirements regarding security within the jail facility nor the physical facility of the adult jail, including but not limited to, the classroom space chosen for instruction, and (b) any excess costs to the jails associated with implementing rules shall be negotiated pursuant to the contractual agreements between the education provider and adult jail facility.

(2) Once districts have submitted a plan to the office of the superintendent of public instruction, districts are not required to resubmit their plans unless either districts or adult jail facilities initiate a significant change to their plans.

(3) An adult jail facility shall notify the office of the superintendent of public instruction as soon as practicable upon the closure of any adult jail facility or upon the adoption of a policy that no juvenile shall be held in the adult jail facility.

NEW SECTION. Sec. 9. ALLOCATION OF MONEY--ACCOUNTABILITY REQUIREMENTS--RULES. The superintendent of public instruction shall:

(1) Allocate money appropriated by the legislature to administer and provide education programs under this chapter to school districts that have assumed the primary responsibility to administer and provide education programs under this chapter or to the educational service district operating the program under contract; and

(2) Adopt rules that apply to school districts and educational providers in accordance with chapter 34.05 RCW that establish reporting, program compliance, audit, and such other accountability

requirements as are reasonably necessary to implement this chapter and related provisions of the omnibus appropriations act effectively. In adopting the rules pursuant to this subsection, the superintendent of public instruction shall collaborate with representatives from the Washington association of sheriffs and police chiefs and shall attempt to negotiate rules that deliver the educational program in the most cost-effective manner while, to the extent practicable, not imposing additional costs on local jail facilities.

NEW SECTION. Sec. 10. Sections 1 through 9 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. Sec. 11. 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."

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 Second Substitute Senate Bill No. 6702. 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 Second Substitute Senate Bill No. 6702.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6702 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6702, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6702, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Benton, Brandland, Hewitt, Holmquist, Honeyford, Morton, Parlette, Pflug, Schoesler, Stevens and Zarelli

Excused: Senators McCaslin and Roach

SECOND SUBSTITUTE SENATE BILL NO. 6702, 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, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6726 with the following amendment(s): 6726-S.E AMH CONW REIN 180; 6726-S.E AMH CL REIN 171

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

On page 1, line 18, after "providers," strike "brokers, and representatives of" and insert "language access agencies, brokers, and"

On page 2, line 9, after "improved;" insert "access to services is maintained or improved;"

On page 3, beginning on line 3, after "to:" strike all material through "procedures" on line 7 and insert "(i) Economic compensation, such as the manner and rate of payments; (ii) professional development and training; (iii) labor-management committees; and (iv) grievance procedures"

On page 7, line 36, after "broker," strike "foreign language" and insert "language access"

On page 8, beginning on line 1, strike all of section 4 and insert the following:

"**Sec. 4.** RCW 41.56.113 and 2007 c 184 s 3 are each amended to read as follows:

(1) This subsection (1) applies only if the state makes the payments directly to a provider.

(a) Upon the written authorization of an individual provider, a family child care provider, ~~((~~¶~~))~~ an adult family home provider, or a language access provider within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the state as payor, but not as the employer, shall, subject to (c) of this subsection ~~((~~3~~) of this section)),~~ deduct from the payments to an individual provider, a family child care provider, ~~((~~¶~~))~~ an adult family home provider, or a language access provider the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall transmit the same to the treasurer of the exclusive bargaining representative.

~~((~~2~~))~~(b) If the governor and the exclusive bargaining representative of a bargaining unit of individual providers, family child care providers, ~~((~~¶~~))~~ adult family home providers, or language access providers enter into a collective bargaining agreement that:

~~((~~¶~~))~~(i) Includes a union security provision authorized in RCW 41.56.122, the state as payor, but not as the employer, shall, subject to (c) of this subsection ~~((~~3~~) of this section)),~~ enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or

~~((~~¶~~))~~(ii) Includes requirements for deductions of payments other than the deduction under (a)(i) of this subsection, the state, as payor, but not as the employer, shall, subject to (c) of this subsection ~~((~~3~~) of this section)),~~ make such deductions upon written authorization of the individual provider, family child care provider, ~~((~~¶~~))~~ adult family home provider, or language access provider.

~~((~~3~~))~~(c)(i) The initial additional costs to the state in making deductions from the payments to individual providers, family child care providers, ~~((~~and~~))~~ adult family home providers, and language access providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

~~((~~¶~~))~~(ii) The allocation of ongoing additional costs to the state in making deductions from the payments to individual providers, family child care providers, ~~((~~¶~~))~~ adult family home providers, or language access providers under this section shall be an appropriate subject of collective bargaining between the exclusive bargaining representative and the governor unless prohibited by another statute. If no collective bargaining agreement containing a provision allocating the ongoing additional cost is entered into between the exclusive bargaining representative and the governor, or if the legislature does not approve funding for the collective bargaining agreement as provided in RCW 74.39A.300, 41.56.028, ~~((~~¶~~))~~ 41.56.029, or section 2 of this act, as applicable, the ongoing

additional costs to the state in making deductions from the payments to individual providers, family child care providers, ~~((~~¶~~))~~ adult family home providers, or language access providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

~~((~~4~~))~~ (d) The governor and the exclusive bargaining representative of a bargaining unit of family child care providers may not enter into a collective bargaining agreement that contains a union security provision unless the agreement contains a process, to be administered by the exclusive bargaining representative of a bargaining unit of family child care providers, for hardship dispensation for license-exempt family child care providers who are also temporary assistance for needy families recipients or WorkFirst participants.

(2) This subsection (2) applies only if the state does not make the payments directly to a provider.

(a) Upon the written authorization of a language access provider within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the state shall require through its contracts with third parties that:

(i) The monthly amount of dues as certified by the secretary of the exclusive bargaining representative be deducted from the payments to the language access provider and transmitted to the treasurer of the exclusive bargaining representative; and

(ii) A record showing that dues have been deducted as specified in (a)(i) of this subsection be provided to the state.

(b) If the governor and the exclusive bargaining representative of the bargaining unit of language access providers enter into a collective bargaining agreement that includes a union security provision authorized in RCW 41.56.122, the state shall enforce the agreement by requiring through its contracts with third parties that:

(i) The monthly amount of dues required for membership in the exclusive bargaining representative as certified by the secretary of the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues, be deducted from the payments to the language access provider and transmitted to the treasurer of the exclusive bargaining representative; and

(ii) A record showing that dues or fees have been deducted as specified in (a)(i) of this subsection be provided to the state.

On page 10, beginning on line 18, after "with" strike all material through "providers" on line 19 and insert "~~((~~interpreters~~))~~ language access providers, local agencies, or other community resources"

On page 10, beginning on line 21, after "providers" strike all material through "providers" on line 23 and insert "as needed to maintain an adequate pool of providers"

On page 10, line 24, after "(5)" insert the following: "The department shall require compliance with RCW 41.56.113(2) through its contracts with third parties.

(6)"

On page 10, line 28, after "~~((~~5~~))~~" strike "(6)" and insert "(7)"

On page 11, line 1, after "~~((~~6~~))~~" strike "(7)" and insert "(8)"

On page 11, line 6, after "broker," strike "foreign language" and insert "language access" 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. 6726.

Senator Marr spoke in favor of the motion.

Senator Schoesler spoke against the motion.

March 6, 2010

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. 6726.

The motion by Senator Marr carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6726 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6726, as amended by the House.

Senators Holmquist, Benton, Pflug, Honeyford and King spoke against passage of the bill.

Senators Marr, Kohl-Welles, Sheldon, Keiser and Kline spoke in favor of passage of the bill.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6726, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, King, Morton, Parlette, Pflug, Regala, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6726, 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:

SUBSTITUTE SENATE BILL 5295,
ENGROSSED SUBSTITUTE SENATE BILL 5529,
ENGROSSED SUBSTITUTE SENATE BILL 5704,
SECOND ENGROSSED SUBSTITUTE SENATE BILL
5742,

SUBSTITUTE SENATE BILL 6192,
SUBSTITUTE SENATE BILL 6202,
SENATE BILL 6206,
SUBSTITUTE SENATE BILL 6207,
SUBSTITUTE SENATE BILL 6214,
SUBSTITUTE SENATE BILL 6248,
SUBSTITUTE SENATE BILL 6332,
SUBSTITUTE SENATE BILL 6340,
SUBSTITUTE SENATE BILL 6342,
SUBSTITUTE SENATE BILL 6343,
SUBSTITUTE SENATE BILL 6373,
ENGROSSED SUBSTITUTE SENATE BILL 6392,
SUBSTITUTE SENATE BILL 6459,
SUBSTITUTE SENATE BILL 6557,
SUBSTITUTE SENATE BILL 6590,
SUBSTITUTE SENATE BILL 6673,
ENGROSSED SUBSTITUTE SENATE BILL 6724,
ENGROSSED SENATE BILL 6764.

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 3124 and asks the Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 3124.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 3124.

The motion by Senator Hargrove carried and the Senate receded from its position in the Senate amendment(s) to Substitute House Bill No. 3124 by voice vote.

MOTION

On motion of Senator Hargrove, the rules were suspended and Substitute House Bill No. 3124 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 3124, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Roberts, Kagi, Simpson and Kenney)

Requiring a report to child protective services when a child is present in the vehicle of a person arrested for driving or being in control of a vehicle while under the influence of alcohol or drugs.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 46.61 RCW to read as follows:

A law enforcement officer shall promptly notify child protective services whenever a child is present in a vehicle being driven by his or her parent, guardian, or legal custodian and that person is being arrested for a drug or alcohol-related driving offense. This section does not require law enforcement to take custody of the child unless there is no other responsible person, or an agency having the right to physical custody of the child that can be contacted, or the officer has reasonable grounds to believe the child should be taken into custody pursuant to RCW 13.34.050 or 26.44.050. For purposes of this section, "child" means any person under thirteen years of age.

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

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

A law enforcement officer shall promptly notify child protective services whenever a child is present in a vehicle being driven by his or her parent, guardian, or legal custodian and that person is being arrested for a drug or alcohol-related driving offense. This section does not require law enforcement to take custody of the child unless there is no other responsible person, or an agency having the right to physical custody of the child that can be contacted, or the officer has reasonable grounds to believe the child should be taken into custody pursuant to RCW 13.34.050 or 26.44.050. For purposes of this section, "child" means any person under thirteen years of age."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to Substitute House Bill No. 3124.

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

MOTION

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

On page 1, line 4 of the title, after "drugs;" strike the remainder of the title and insert "adding a new section to chapter 46.61 RCW; and adding a new section to chapter 26.44 RCW."

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 3124 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3124 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3124 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

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

Voting nay: Senator Zarelli

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 3124 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6826 with the following amendment(s): 6826 AMH CARL H5527.1

On page 5, after line 7, insert the following:

"NEW SECTION. **Sec. 2.** A new section is added to chapter 46.01 RCW to read as follows:

The department must implement a fair, equitable, and objective rotation of public and private entity listings on the department's vehicle licensing and registration web site. The entities to be listed on the rotation are the vehicle licensing subagents and county auditors to assist the public and businesses in locating vehicle licensing offices."

Correct the title.

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. 6826.

Senator Swecker spoke in favor of the motion.

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. 6826.

The motion by Senator Eide carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6826 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6826, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6826, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

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

Voting nay: Senators Franklin, Kauffman, Keiser and Stevens

Excused: Senator McCaslin

SENATE BILL NO. 6826, 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

February 28, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6582 with the following amendment(s): 6582-S.E AMH ENGR H5361.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.88A.010 and 1991 c 16 s 1 are each amended to read as follows:

(1) The legislature takes special note of the contributions made by nursing assistants in health care facilities whose tasks are arduous and whose working conditions may be contributing to the high and

often critical turnover among the principal cadre of health care workers who provide for the basic needs of patients. The legislature also recognizes the growing shortage of nurses as the proportion of the elderly population grows and as the acuity of patients in hospitals and nursing homes becomes generally more severe.

(2) The legislature finds and declares that:

~~(a)~~ Occupational nursing assistants should have a formal system of educational and experiential qualifications leading to career mobility and advancement. The establishment of such a system should bring about a more stabilized workforce in health care facilities, as well as provide a valuable resource for recruitment into licensed nursing practice.

~~(The legislature finds that)~~ (b) The quality of patient care in health care facilities is dependent upon the competence of the personnel who staff their facilities. To assure the availability of trained personnel in health care facilities the legislature recognizes the need for training programs for nursing assistants.

~~(The legislature declares that)~~ (c) Certified home care aides and medical assistants are a valuable potential source of nursing assistants who will be needed to meet the care needs of the state's growing aging population. To assure continued opportunity for recruitment into licensed nursing practice and career advancement for certified home care aides and medical assistants, nursing assistant training programs should recognize the relevant training and experience obtained by these credentialed professionals. By taking advantage of the authority granted under the federal social security act to certify nursing assistants through a state-approved competency evaluation program as a federally recognized alternative to the state-approved training and competency evaluation program, the legislature intends to increase the potential for recruitment into licensed nursing practice while maintaining a single standard for competency evaluation of certified nursing assistants.

(d) The registration of nursing assistants and providing for voluntary certification of those who wish to seek higher levels of qualification is in the interest of the public health, safety, and welfare.

Sec. 2. RCW 18.88A.020 and 1994 sp.s. c 9 s 708 are each amended to read as follows:

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

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

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

(3) "Commission" means the Washington nursing care quality assurance commission.

(4) "Nursing assistant" means an individual, regardless of title, who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the delivery of nursing and nursing-related activities to patients in a health care facility. The two levels of nursing assistants are:

(a) "Nursing assistant-certified," an individual certified under this chapter~~(:); and~~

(b) "Nursing assistant-registered," an individual registered under this chapter.

(5) "Approved training program" means a nursing assistant-certified training program approved by the commission to meet the requirements of a state-approved nurse aide training and competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act. For community college, vocational-technical institutes, skill centers, and secondary school as defined in chapter 28B.50 RCW, nursing assistant-certified training programs shall be approved by the commission in cooperation with the board for community and technical colleges or the superintendent of public instruction.

(6) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, or

other entity for delivery of health care services as defined by the commission.

(7) "Competency evaluation" means the measurement of an individual's knowledge and skills as related to safe, competent performance as a nursing assistant.

(8) "Alternative training" means a nursing assistant-certified program meeting criteria adopted by the commission under section 3 of this act to meet the requirements of a state-approved nurse aide competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act.

NEW SECTION. Sec. 3. A new section is added to chapter 18.88A RCW to read as follows:

(1) The commission shall adopt criteria for evaluating an applicant's alternative training to determine the applicant's eligibility to take the competency evaluation for nursing assistant certification. At least one option adopted by the commission must allow an applicant to take the competency evaluation if he or she:

(a)(i) Is a certified home care aide pursuant to chapter 18.88B RCW; or

(ii) Is a certified medical assistant pursuant to a certification program accredited by a national medical assistant accreditation organization and approved by the commission; and

(b) Has successfully completed twenty-four hours of training that the commission determines is necessary to provide training equivalent to approved training on topics not addressed in the training specified for certification as a home care aide or medical assistant, as applicable. In the commission's discretion, a portion of these hours may include clinical training.

(2)(a) By July 1, 2011, the commission, in consultation with the secretary, the department of social and health services, and consumer, employer, and worker representatives, shall adopt rules to implement this section and to provide, beginning January 1, 2012, for a program of credentialing reciprocity to the extent required by this section between home care aide and medical assistant certification and nursing assistant certification. By July 1, 2011, the secretary shall also adopt such rules as may be necessary to implement this section and the credentialing reciprocity program.

(b) Rules adopted under this section must be consistent with requirements under 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act relating to state-approved competency evaluation programs for certified nurse aides.

(3) Beginning December 1, 2012, the secretary, in consultation with the commission, shall report annually by December 1st to the governor and the appropriate committees of the legislature on the progress made in achieving career advancement for certified home care aides and medical assistants into nursing practice.

Sec. 4. RCW 18.88A.030 and 1995 1st sp.s. c 18 s 52 are each amended to read as follows:

(1)(a) A nursing assistant may assist in the care of individuals as delegated by and under the direction and supervision of a licensed (registered) nurse or licensed practical nurse.

~~((2))~~ (b) A health care facility shall not assign a nursing assistant-registered to provide care until the nursing assistant-registered has demonstrated skills necessary to perform competently all assigned duties and responsibilities.

~~((3))~~ (c) Nothing in this chapter shall be construed to confer on a nursing assistant the authority to administer medication unless delegated as a specific nursing task pursuant to this chapter or to practice as a licensed (registered) nurse or licensed practical nurse as defined in chapter 18.79 RCW.

~~((4))~~ (2)(a) A nursing assistant employed in a nursing home must have successfully obtained certification through: (i) An approved training program and the competency evaluation within four months after the date of employment; or (ii) alternative training and the competency evaluation prior to employment.

~~(b)~~ Certification is voluntary for nursing assistants working in

FIFTY EIGHTH DAY, MARCH 9, 2010

health care facilities other than nursing homes unless otherwise required by state or federal law or regulation.

~~((5))~~ (3) The commission may adopt rules to implement the provisions of this chapter.

Sec. 5. RCW 18.88A.050 and 1991 c 16 s 6 are each amended to read as follows:

In addition to any other authority provided by law, the secretary has the authority to:

(1) Set all nursing assistant certification, registration, and renewal fees in accordance with RCW 43.70.250 and to collect and deposit all such fees in the health professions account established under RCW 43.70.320;

(2) Establish forms, procedures, and ~~((examinations))~~ the competency evaluation necessary to administer this chapter;

(3) Hire clerical, administrative, and investigative staff as needed to implement this chapter;

(4) Issue a nursing assistant registration to any applicant who has met the requirements for registration;

(5) After January 1, 1990, issue a nursing assistant certificate to any applicant who has met the ~~((education,))~~ training, competency evaluation, and conduct requirements for certification under this chapter;

(6) Maintain the official record for the department of all applicants and persons with registrations and certificates under this chapter;

(7) Exercise disciplinary authority as authorized in chapter 18.130 RCW;

(8) Deny registration to any applicant who fails to meet requirement for registration as a nursing assistant;

(9) Deny certification to applicants who do not meet the ~~((education,))~~ training, competency evaluation, and conduct requirements for certification as a nursing assistant.

Sec. 6. RCW 18.88A.060 and 1994 sp.s. c 9 s 710 are each amended to read as follows:

In addition to any other authority provided by law, the commission may:

(1) Determine minimum nursing assistant education requirements and approve training programs;

(2) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, ~~((examinations of training and))~~ the competency evaluation for applicants for nursing assistant certification, using the same competency evaluation for all applicants, whether qualifying to take the competency evaluation under an approved training program or alternative training;

~~(3) ((Determine whether alternative methods of training are equivalent to approved training programs, and))~~ Establish forms ~~((, and criteria))~~ and procedures ~~((, and criteria))~~ for evaluation of an applicant's alternative training ~~((to determine the applicant's eligibility to take any qualifying examination for certification))~~ under criteria adopted pursuant to section 3 of this act;

(4) Define and approve any experience requirement for nursing assistant certification;

(5) Adopt rules implementing a continuing competency evaluation program for nursing assistants; and

(6) Adopt rules to enable it to carry into effect the provisions of this chapter.

Sec. 7. RCW 18.88A.085 and 2007 c 361 s 9 are each amended to read as follows:

(1) After January 1, 1990, the secretary shall issue a nursing assistant certificate to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Successful completion of an approved training program or successful completion of ~~((alternate))~~ alternative training meeting

2010 REGULAR SESSION

established criteria ~~((approved))~~ adopted by the commission under section 3 of this act; and

(b) Successful completion of ~~((a))~~ the competency evaluation.

~~(2) ((The secretary may permit all or a portion of the training hours earned under chapter 74.39A RCW to be applied toward certification under this section.~~

~~—(3))~~ In addition, applicants shall be subject to the grounds for denial of certification under chapter 18.130 RCW.

Sec. 8. RCW 18.88A.090 and 1994 sp.s. c 9 s 713 are each amended to read as follows:

~~(1) ((The date and location of examinations shall be established by the secretary. Applicants who have been found by the secretary to meet the requirements for certification shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.~~

~~—(2))~~ The commission shall examine each applicant, by a written or oral and a manual component of competency evaluation. ~~((Examinations))~~ The competency evaluation shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

~~((3) The examination papers, all grading of the papers, and the grading of skills demonstration shall be preserved for a period of not less than one year after the commission has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.~~

~~—(4))~~ (2) Any applicant failing to make the required grade in the first ~~((examination))~~ competency evaluation may take up to three subsequent ~~((examinations))~~ competency evaluations as the applicant desires upon prepaying a fee determined by the secretary under RCW 43.70.250 for each subsequent ~~((examination))~~ competency evaluation. Upon failing four ~~((examinations))~~ competency evaluations, the secretary may invalidate the original application and require such remedial education before the person may take future ~~((examinations))~~ competency evaluations.

~~((5))~~ The commission may approve ~~((an examination))~~ a competency evaluation prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the credentialing requirements.

Sec. 9. RCW 18.88A.110 and 1991 c 16 s 13 are each amended to read as follows:

An applicant holding a credential in another state may be certified by endorsement to practice in this state without ~~((examination))~~ the competency evaluation if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state.

Sec. 10. RCW 18.88A.140 and 2003 c 140 s 3 are each amended to read as follows:

Nothing in this chapter may be construed to prohibit or restrict:

(1) The practice by an individual licensed, certified, or registered under the laws of this state and performing services within their authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the secretary, and whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor;

(4) A nursing assistant, while employed as a personal aide as defined in RCW 74.39.007 or a long-term care worker as defined in chapter 74.39A RCW, from accepting direction from an individual who is self-directing ~~((their))~~ his or her care.

Sec. 11. RCW 18.88B.040 and 2009 c 580 s 15 are each amended to read as follows:

The following long-term care workers are not required to become a certified home care aide pursuant to this chapter.

(1) Registered nurses, licensed practical nurses, certified nursing assistants or persons who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, medicare- certified home health aides, or other persons who hold a similar health credential, as determined by the secretary of health, or persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010, if the secretary of health determines that the circumstances do not require certification. Individuals exempted by this subsection may obtain certification as a home care aide from the department of health without fulfilling the training requirements in RCW 74.39A.073 but must successfully complete a certification examination pursuant to RCW 18.88B.030.

(2) A person already employed as a long-term care worker prior to January 1, 2011, who completes all of his or her training requirements in effect as of the date he or she was hired, is not required to obtain certification. Individuals exempted by this subsection may obtain certification as a home care aide from the department of health without fulfilling the training requirements in RCW 74.39A.073 but must successfully complete a certification examination pursuant to RCW 18.88B.030.

(3) All long-term care workers employed by supported living providers are not required to obtain certification under this chapter.

(4) An individual provider caring only for his or her biological, step, or adoptive child or parent is not required to obtain certification under this chapter.

(5) Prior to June 30, 2014, a person hired as an individual provider who provides twenty hours or less of care for one person in any calendar month is not required to obtain certification under this chapter.

(6) A long-term care worker exempted by this section from the training requirements contained in RCW 74.39A.073 may not be prohibited from enrolling in training pursuant to that section.

(7) The department of health shall adopt rules by August 1, 2010, to implement this section.

NEW SECTION. Sec. 12. RCW 18.88A.115 (Home care aide certification reciprocity) and 2009 c 580 s 16 & 2009 c 2 s 11 (Initiative Measure No. 1029) are each repealed.

NEW SECTION. Sec. 13. If any part of this act is found by a federal agency to be in conflict with federal requirements, including requirements related to the medicare and medicaid programs under the federal social security act, 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, including requirements related to the medicare and medicaid programs under the federal social security act, that are a necessary condition to the receipt of federal funds by the state."

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. 6582.

Senators Keiser and Pflug spoke in favor of passage of the motion.

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. 6582.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6582 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6582, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6582, 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 Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6582, 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

February 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6647 with the following amendment(s): 6647-S AMH CL H5345.1

On page 1, beginning on line 7, after "discipline" strike all material through "operation" on line 10, and insert ":

(a) A volunteer firefighter or reserve officer because of leave taken related to an alarm of fire or an emergency call; or

(b) A civil air patrol member because of leave taken related to an emergency service operation"
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Honeyford moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6647.

Senator Honeyford spoke in favor of 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 Honeyford that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6647.

The motion by Senator Honeyford carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6647 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6647, as amended by the House.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6647, 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 Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Prentice

SUBSTITUTE SENATE BILL NO. 6647, 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, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6401 with the following amendment(s): 6401 AMH HAIG REIL 098

On page 2, line 27, after "proposals." insert "Notice of the public solicitation of proposals must be provided to the office of minority and women's business enterprises."

On page 3, after line 11, insert "(e) The firm's plan for outreach to minority and women-owned businesses;"

Re-number the subsections consecutively and correct any internal references accordingly. and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Brandland moved that the Senate concur in the House amendment(s) to Senate Bill No. 6401.

Senator Brandland spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Brandland that the Senate concur in the House amendment(s) to Senate Bill No. 6401.

The motion by Senator Brandland carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6401 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6401, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6401, 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 Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton,

Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Prentice

SENATE BILL NO. 6401, 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 2:58 p.m., on motion of Senator McDermott, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 7:01 p.m. by President Owen.

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House has passed:

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6609,

SUBSTITUTE SENATE BILL 6614

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

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

SUBSTITUTE HOUSE BILL 2935

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

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

ENGROSSED HOUSE BILL 2519,

SUBSTITUTE HOUSE BILL 2525,

SECOND SUBSTITUTE HOUSE BILL 2742

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

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

ENGROSSED SUBSTITUTE HOUSE BILL 2925,

HOUSE BILL 3030,

SUBSTITUTE HOUSE BILL 3046,
ENGROSSED SUBSTITUTE HOUSE BILL 3179
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2196, by House Committee on Ways & Means (originally sponsored by Representatives Ericks and Ormsby)

Including service credit transferred from the law enforcement officers' and firefighters' retirement system plan 1 in the determination of eligibility for military service credit.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2196 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Hewitt spoke in favor of passage of the bill.

MOTION

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2196.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2196 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2196, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2758, by House Committee on Finance (originally sponsored by Representatives Hunter, Condotta, Kessler and Orcutt)

Documenting wholesale sales for excise tax purposes. Revised for 1st Substitute: Documenting wholesale sales for excise tax purposes. (REVISED FOR ENGROSSED:)

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2758 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2758.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2758 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2758, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1597, by House Committee on Finance (originally sponsored by Representatives Springer and Hunter)

Concerning the administration of state and local tax programs. Revised for 2nd Substitute: Improving the administration of state and local tax programs without impacting tax collections by providing greater consistency in numerous tax incentive programs, revising provisions relating to the confidentiality and disclosure of tax information, and amending statutes to improve clarity and consistency, eliminate obsolete provisions, and simplify administration.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed Second Substitute House Bill No. 1597 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1597.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1597 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1597, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MESSAGE FROM THE HOUSE

March 8, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6381 with the following amendment(s): 6381-S.E AMH ENGR H5516.E

Strike everything after the enacting clause and insert the following:

"2009-11 FISCAL BIENNIUM ECONOMIC STIMULUS FUNDING

Sec. 1. 2009 c 8 s 2 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

Motor Vehicle Account--Federal Appropriation\$341,400,000

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

(1) The entire appropriation in this section is ((provided solely)) for the projects and amounts listed in ARRA Washington State Project LEAP document 2009, as developed on February 24, 2009. Funds under this section may be reallocated among projects shown in the document to the extent that the department finds it necessary for the purposes of facilitating completion of the projects with the highest priority or to maintain maximum federal funds eligibility.

(2) To achieve the legislative objectives provided in section 1(2) of this act with respect to highway projects, it is the intent of the legislature that the appropriation in this section be used for: Transportation 2003 account (nickel account) projects and transportation partnership account (TPA) projects that would have otherwise been delayed due to decreased revenues, so as to advance project completion dates similar to those envisioned in the enacted 2008 legislative list of projects; projects that preserve or rehabilitate Washington state highways and roads; and projects that modify

roadway alignments and conditions to create safer roads for the traveling public.

(3)(a) The department of transportation shall obligate at least fifty percent of the funds no later than one hundred twenty days after surface transportation program funds under the American Recovery and Reinvestment Act of 2009 have been apportioned to the states;

(b) The department shall obligate all funds no later than one year after surface transportation program funds under the American Recovery and Reinvestment Act of 2009 have been apportioned to the states;

(c) The department shall place the first priority for allocating funds on those projects listed as "First Tier" projects on ARRA Washington State Project LEAP document 2009, as developed on February 24, 2009. The department shall place the second priority on projects listed as "Second Tier" projects on the document; and

(d) Within each tier of projects on ARRA Washington State Project LEAP document 2009, as developed on February 24, 2009, the department shall place the highest priority for allocating funds on the transportation 2003 account (nickel account) projects and transportation partnership account (TPA) projects listed to advance their completion. The department shall prioritize funding for other projects within the tier according to how soon the contract for the project could be awarded.

(4) By June 30, 2009, the department of transportation shall report to the legislative standing committees on transportation and the office of financial management on the status of federal stimulus funds including, but not limited to, identifying the projects shown in ARRA Washington State Project LEAP document 2009, as developed on February 24, 2009, for which federal stimulus funding has already been obligated, the amount of federal recovery funds estimated to be obligated to the projects, and the completion status of each project. Subsequent status reports are due to the legislative standing committees on transportation and the office of financial management on August 31, 2009, and December 1, 2009.

GENERAL GOVERNMENT AGENCIES--OPERATING

Sec. 101. 2009 c 470 s 101 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Motor Vehicle Account--State Appropriation(((\$422,000))

\$413,000

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

Sec. 102. 2009 c 470 s 102 (uncodified) is amended to read as follows:

FOR THE UTILITIES AND TRANSPORTATION COMMISSION

Grade Crossing Protective Account--State

Appropriation.....(((\$705,000))

\$702,000

Sec. 103. 2009 c 470 s 103 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

Motor Vehicle Account--State Appropriation.....(((\$3,389,000))

\$3,526,000

Puget Sound Ferry Operations Account--State

Appropriation.....(((\$100,000))

\$98,000

TOTAL APPROPRIATION

(((\$3,489,000))

\$3,624,000

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

(1) \$1,699,000 of the motor vehicle account--state appropriation is provided solely for the office of regulatory assistance integrated permitting project.

(2) \$1,004,000 of the motor vehicle account--state appropriation is provided solely for the continued maintenance and support of the transportation executive information system. Of the amount provided in this subsection, \$502,000 is for two existing FTEs at the department of transportation to maintain and support the system.

(3) \$150,000 of the motor vehicle account--state appropriation is provided solely for the office of financial management to contract with the Washington state association of counties for a pilot program to develop and implement a streamlined process for programmatic hydraulic project approvals for multiple, recurring local transportation and public works projects. The pilot program must include the following: (a) Describing, defining, and documenting classes of local transportation and public works projects appropriate for programmatic hydraulic project approvals permits; (b) developing technical permitting requirements and conditions; (c) administratively adopting and implementing programmatic hydraulic project approvals statewide; and (d) piloting, reviewing, updating, and training throughout all Washington counties. For the purpose of this subsection, the contract with the Washington state association of counties is deemed a revenue generation and auditing activity as that term is construed in section 602(2), chapter 3, Laws of 2010.

Sec. 104. 2009 c 470 s 104 (uncodified) is amended to read as follows:

FOR THE MARINE EMPLOYEES COMMISSION

Puget Sound Ferry Operations Account--State
Appropriation.....((~~\$446,000~~))
\$440,000

Sec. 105. 2009 c 470 s 105 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Motor Vehicle Account--State Appropriation.....((~~\$986,000~~))
\$985,000

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

Sec. 106. 2009 c 470 s 106 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

Motor Vehicle Account--State Appropriation.....((~~\$1,507,000~~))
\$1,493,000

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

(1) \$351,000 of the motor vehicle account--state appropriation is provided solely for costs associated with the motor fuel quality program.

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

Sec. 107. 2009 c 470 s 107 (uncodified) is amended to read as follows:

FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

Motor Vehicle Account--State Appropriation.....((~~\$502,000~~))
\$491,000

Sec. 108. 2009 c 470 s 108 (uncodified) is amended to read as follows:

FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

Multimodal Transportation Account--State Appropriation

(1) As part of its 2009-11 fiscal biennium work plan, the joint legislative audit and review committee shall audit the capital cost accounting practices of the Washington state ferries. The audit must review the following and provide a report on its findings and any related recommendations to the legislature by January 2011:

(a) Costs assigned to capital accounts to determine whether they are capital costs that meet the statutory requirements for preservation and improvement activities and whether they are within the scope of legislative appropriations;

(b) Implementation of the life-cycle cost model required under RCW 47.60.345 to determine if it was developed as required and is maintained and updated when asset inspections are made; and

(c) Washington state ferries' implementation of the cost allocation methodology evaluated under section 205, chapter 518, Laws of 2007, assessing whether actual costs are allocated consistently with the methodology, whether there are sufficient internal controls to ensure proper allocation, and the adequacy of staff training.

(2) The joint legislative audit and review committee shall use existing staff and resources to conduct a review of scoping and cost estimates for transportation highway improvement and preservation projects funded in whole, or in part, by transportation partnership account--state and transportation 2003 account (nickel account)--state funds, excluding mega-projects. The review will examine whether the scoping and cost estimates guidelines used by the department of transportation are consistent with general construction industry practices and other appropriate standards. The review will include an analysis of a sample of scope and cost estimates for future projects. A report on the committee's findings and recommendations must be submitted to the house of representatives and senate transportation committees by December 2009.

(3) As part of its 2009-11 fiscal biennium work plan, the joint legislative audit and review committee shall conduct an analysis of the cost of credit card payment options at the department of transportation. For programs where a credit card payment option is offered, the review must include:

(a) An analysis of the direct and indirect cost per transaction to process customer payments using credit cards;

(b) An analysis of the direct and indirect cost per transaction for other methods of processing customer payments;

(c) An analysis of the historical and projected total aggregate costs for processing all forms of customer payments;

(d) Identification of whether there are customer service, administrative, and revenue collection benefits resulting from credit card usage; and

(e) A review of the use of credit card payment options in other state agencies and in similar transportation programs at other states.

The committee shall provide a report on its findings and any related recommendations to the legislature by January 2010.

(4)(a) As part of its 2009-11 fiscal biennium work plan, the entire appropriation in this section is for the joint legislative audit and review committee to conduct an analysis of the storm water permit requirements issued by the department of ecology in February 2009 to determine the costs and benefits of alternative options for the department of transportation to meet the requirements. However, if the committee does not include the analysis as part of its 2009-11 fiscal biennium work plan by April 15, 2010, the amount provided in this section lapses. The analysis must include, at a minimum, an analysis of the following:

(i) The department of transportation performing the functions of the permit in house;

(ii) The functions of the permit being consolidated within the

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

department of ecology or otherwise centralizing efforts for all state agencies; and

transportation committees of the legislature and the office of financial management.

(iii) The use of an external firm or organization to meet the requirements.

Sec. 202. 2009 c 470 s 202 (uncodified) is amended to read as follows:

(b) The entire appropriation is for a consultant contract to assist the committee with its analysis. For the purpose of this subsection, the consultant contract is deemed an auditing activity as that term is construed in section 602(2), chapter 3, Laws of 2010.

FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account--State Appropriation.....((~~\$920,000~~))
\$896,000

Motor Vehicle Account--State Appropriation.....((~~\$2,129,000~~))
\$2,084,000

County Arterial Preservation Account--State
Appropriation.....((~~\$1,423,000~~))
\$1,396,000

TOTAL APPROPRIATION.....((~~\$4,472,000~~))
\$4,376,000

(c) The committee shall provide a report to the legislature by December 2010.

Sec. 203. 2009 c 470 s 203 (uncodified) is amended to read as follows:

TRANSPORTATION AGENCIES—OPERATING

Sec. 201. 2009 c 470 s 201 (uncodified) is amended to read as follows:

FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION

FOR THE TRANSPORTATION IMPROVEMENT BOARD

Highway Safety Account--State Appropriation.....((~~\$2,542,000~~))
\$2,532,000

Urban Arterial Trust Account--State Appropriation...((~~\$1,824,000~~))
\$1,793,000

Highway Safety Account--Federal Appropriation...((~~\$16,540,000~~))
\$34,630,000

Transportation Improvement Account--State
Appropriation.....((~~\$1,827,000~~))
\$1,796,000

School Zone Safety Account--State Appropriation.....\$3,340,000
Highway Safety Account--Local Appropriation.....\$50,000

TOTAL APPROPRIATION.....((~~\$3,651,000~~))
\$3,589,000

TOTAL APPROPRIATION.....((~~\$22,472,000~~))
\$40,552,000

Sec. 204. 2009 c 470 s 204 (uncodified) is amended to read as follows:

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

FOR THE JOINT TRANSPORTATION COMMITTEE

(1) ((~~\$2,670,000~~)) \$2,826,000 of the highway safety account--federal appropriation is provided solely for a target zero trooper pilot program, which the commission shall develop and implement in collaboration with the Washington state patrol. The pilot program must demonstrate the effectiveness of intense, high visibility, driving under the influence enforcement in Washington. The commission shall apply to the national highway traffic safety administration for federal highway safety grants to cover the cost of the pilot program. If the pilot program is approved for funding by the national highway traffic safety administration, and sufficient federal grants are received, the commission shall provide grants to the Washington state patrol for the purchase of twenty-one fully equipped patrol vehicles in fiscal year 2010, and up to twenty-four months of salaries and benefits for eighteen troopers and three sergeants beginning in fiscal year ((2011)) 2010. The legislature anticipates that an additional ((~~\$1,830,000~~)) \$1,673,900 will be appropriated from the highway safety account-- federal in the 2011-13 fiscal biennium to conclude this pilot program.

Motor Vehicle Account--State Appropriation.....((~~\$1,901,000~~))
\$2,163,000

Multimodal Transportation Account--State Appropriation.\$400,000
TOTAL APPROPRIATION.....\$2,563,000

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

(2) The commission may oversee pilot projects implementing the use of automated traffic safety cameras to detect speed violations within cities west of the Cascade mountains that have a population over two hundred thousand. For the purposes of pilot projects in this subsection, no more than one automated traffic safety camera may be used to detect speed violations within any one jurisdiction.

(1) \$236,000 of the motor vehicle account--state appropriation is a reappropriation from the 2007-09 fiscal biennium for a comprehensive analysis of mid-term and long-term transportation funding mechanisms and methods. Elements of the study will include existing data and trends, policy objectives, performance and evaluation criteria, incremental transition strategies, and possibly, scaled testing. Baseline data and methods assessment must be concluded by December 31, 2009. Performance criteria must be developed by June 30, 2010, and recommended planning level alternative funding strategies must be completed by December 31, 2010.

(2) \$200,000 of the motor vehicle account--state appropriation is for the joint transportation committee to convene an independent expert review panel to review the assumptions for toll operations costs used by the department to model financial plans for tolled facilities. The joint transportation committee shall work with staff from the senate and the house of representatives transportation committees to identify the scope of the review and to assure that the work performed meets the needs of the house of representatives and the senate. The joint transportation committee shall provide a report to the house of representatives and senate transportation committees by September 1, 2009.

(a) The commission shall comply with RCW 46.63.170 in administering the projects.

(b) In order to ensure adequate time in the 2009-11 fiscal biennium to evaluate the effectiveness of the pilot projects, any projects authorized by the commission must be authorized by December 31, 2009.

(c) By January 1, 2011, the commission shall provide a report to the legislature regarding the use, public acceptance, outcomes, and other relevant issues regarding automated traffic safety cameras demonstrated by the projects.

(3) \$300,000 of the motor vehicle account--state appropriation is for an independent analysis of methodologies to value the reversible lanes on Interstate 90 to be used for high capacity transit pursuant to sound transit proposition 1 approved by voters in November 2008. The independent analysis shall be conducted by sound transit and the department of transportation, using consultant resources deemed appropriate by the secretary of the department, the chief executive officer of sound transit, and the cochair of the joint transportation committee. It shall be conducted in consultation with the federal transit and federal highway

(3) \$18,000,000 of the highway safety account--federal appropriation is for federal funds that may be received during the 2009-11 fiscal biennium. Upon receipt of the funds, the commission shall provide a report on the use of the funds to the

administrations and account for applicable federal laws, regulations, and practices. It shall also account for the 1976 Interstate 90 memorandum of agreement and subsequent 2004 amendment and the 1978 federal secretary of transportation's environmental decision on Interstate 90. The department and sound transit must provide periodic reports to the joint transportation committee, the sound transit board of directors, and the governor, and report final recommendations by November 1, 2009.

(4) The joint transportation committee shall perform a review of the fuel tax refunds for nonhighway or off-road use of gasoline and diesel fuels as listed in RCW 46.09.170, 46.10.150, and 79A.25.070. The review must: Provide an overview of the off-road programs; analyze historical funding and expenditures from the respective treasury accounts; outline and provide process documentation on how the funds are distributed to the treasury accounts; and document future identified off-road, snowmobile, and marine funding needs. A report on the joint transportation committee review must be presented to the house of representatives and senate transportation committees by December 31, 2010.

(5)(a) \$350,000 of the multimodal transportation account--state appropriation is for the joint transportation committee to conduct a study to establish a statewide blueprint for public transportation that will serve to guide state investments in public transportation. At a minimum, the study should include an assessment of unmet operating and capital needs of public transportation agencies, the state role in funding those unmet needs, and the priorities for state investments. The report should include efficiency and accountability measures that inform future state investment in public transportation to maximize mobility, social, economic, and environmental benefits provided to the state.

(b) The statewide blueprint for public transportation should serve to guide state investments to support public transportation and address unmet needs to improve service, access to public transportation, and connectivity between public transportation providers across jurisdictional boundaries. The blueprint must be consistent with the state's transportation system policy goals provided in RCW 47.04.280 and the statewide transportation plan provided in RCW 47.01.071(4).

(c) To provide input to the study, the joint transportation committee shall convene a public transit advisory panel. The cochairs of the committee shall appoint and convene the advisory panel to be comprised of members as provided in this subsection:

(i) One member from each of the two largest caucuses of the senate;

(ii) One member from each of the two largest caucuses of the house of representatives;

(iii) One representative of the department of transportation's public transportation division;

(iv) Two representatives of users of public transportation systems, one of which must represent persons with special needs;

(v) Three representatives from transit agencies from a list recommended by the Washington state transit association;

(vi) Two representatives from regional transportation planning organizations, one representing eastern Washington and one representing western Washington;

(vii) Three representatives of employers at or owners of major work sites in Washington;

(viii) The chief executive officer, or the chief executive officer's designee, of a regional transit authority;

(ix) Two representatives of organizations that address primarily environmental issues;

(x) One member of a collective bargaining organization that primarily represents the interests of transit agency employees; and

(xi) Other individuals deemed appropriate.

Nonlegislative members of the advisory panel must seek reimbursement for travel and other membership expenses through

their respective agencies or organizations. The committee may make exceptions and approve certain expenses for good cause on a case-by-case basis.

(d) The joint transportation committee shall submit a report on the study to the standing transportation committees of the legislature by December 15, 2010.

(6) The joint transportation committee shall work with the department of licensing, the office of the code reviser, staff to the legislative transportation committees, and other stakeholders to evaluate the implementation of Senate Bill No. 6379. At a minimum, the evaluation must identify the unintended impacts of Senate Bill No. 6379 on policy and revenue collection, if any. The joint transportation committee shall issue its evaluation, including corrective draft legislation if needed, by December 1, 2010.

(7) \$125,000 of the motor vehicle account--state appropriation is for the joint transportation committee to evaluate the preparation of state-level transportation plans. The evaluation must include a review of federal planning requirements, the Washington transportation plan and statewide modal plan requirements, and transportation plan requirements for regional and local entities. The evaluation must make recommendations concerning the appropriate responsibilities for preparation of plans, methods to develop plans more efficiently, and the utility of the state-level planning documents. The committee shall issue a report of its evaluation, including draft legislation if required, to the house of representatives and senate transportation committees by December 15, 2010.

(8)(a) \$200,000 of the motor vehicle account--state appropriation is for the joint transportation committee to evaluate funding assistance and services provided by the county road administration board, transportation improvement board, freight mobility strategic investment board, and the department of transportation's highway and local programs division. In 2010, the governor recommended consolidating small transportation agencies as part of an overall effort to streamline state government, provide economies of scale, and improve customer service. The evaluation may include recommendations on consolidating the agencies within the department of transportation, within another existing agency, or within a newly created agency. The study may also make recommendations on restructuring grant programs to generate efficiencies or other more efficient ways to distribute associated revenues.

(b) The joint transportation committee shall form a policy work group to oversee the evaluation. The work group must consist of legislators appointed by the joint transportation committee and a member of the governor's staff appointed by the governor.

(c) Any evaluation recommendations must be accompanied by a detailed implementation plan. The plan must include details on the recommended governance structure, accounts and program structure, and transition process and associated costs. The plan must include a proposed organization chart and proposed legislation to enact the recommended changes. A preliminary evaluation must be made to the joint transportation committee by November 15, 2010, and a final evaluation is due on December 15, 2010.

(9) The joint transportation committee shall conduct the following studies by December 15, 2010:

(a) A comparison of medical, time-loss, vocational and disability benefits available to injured workers, and costs payable by the state of Washington and employees, under the federal Jones act and Washington's industrial insurance act. The report must include information regarding the experience of the Alaska marine highway system; and

(b) A comparison of the processing time of grievances and hearings at the personnel relations employment commission and the marine employee commission. The review must also investigate whether the necessary expertise exists at the personnel relations

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

employment commission to administer the grievances and hearings currently administered by the marine employee commission.

(10)(a) \$50,000 of the multimodal transportation account--state appropriation is for the joint transportation committee to conduct an analysis of the storm water permit requirements issued by the department of ecology in February 2009 to determine the costs and benefits of alternative options for the department of transportation to meet the requirements. However, if the committee does not include the analysis as part of its 2009-11 fiscal biennium work plan by April 15, 2010, the amount provided in this subsection lapses. The analysis must include, at a minimum, an analysis of the following:

(i) The department of transportation performing the functions of the permit in house;

(ii) The functions of the permit being consolidated within the department of ecology or otherwise centralizing efforts for all state agencies; and

(iii) The use of an external firm or organization to meet the requirements.

(b) The committee shall provide a report to the legislature by December 2010.

Sec. 205. 2009 c 470 s 205 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION COMMISSION

Motor Vehicle Account--State Appropriation.....	(\$2,237,000)
	<u>\$2,328,000</u>
Multimodal Transportation Account--State Appropriation	\$112,000
TOTAL APPROPRIATION.....	(\$2,349,000)
	<u>\$2,440,000</u>

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

(1) Pursuant to RCW 43.135.055, during the 2009-11 fiscal biennium, the transportation commission shall periodically review and, if necessary, modify the schedule of fares for the Washington state ferry system. The transportation commission may increase ferry fares, except no fare schedule modifications may be made prior to September 1, 2009. For purposes of this subsection, "modify" includes increases or decreases to the schedule. ((The commission may only approve ferry fare rate changes that have the same proportionate change for passengers as for vehicles.))

(2) Pursuant to RCW 43.135.055, during the 2009-11 fiscal biennium, the transportation commission shall periodically review and, if necessary, modify a schedule of toll charges applicable to the state route number 167 high occupancy toll lane pilot project, as required under RCW 47.56.403. For purposes of this subsection, "modify" includes increases or decreases to the schedule.

(3) Pursuant to RCW 43.135.055, during the 2009-11 fiscal biennium, the transportation commission shall periodically review and, if necessary, modify the schedule of toll charges applicable to the Tacoma Narrows bridge, taking into consideration the recommendations of the citizen advisory committee created under RCW 47.46.091. For purposes of this subsection, "modify" includes increases or decreases to the schedule.

(4) The commission may name state ferry vessels consistent with its authority to name state transportation facilities under RCW 47.01.420. When naming or renaming state ferry vessels, the commission shall investigate selling the naming rights and shall make recommendations to the legislature regarding this option.

(5) \$350,000 of the motor vehicle account--state appropriation is provided solely for consultant support services to assist the commission in updating the statewide transportation plan. The updated plan must be submitted to the legislature by December 1, 2010.

(6) If the commission considers implementing a ferry fuel surcharge, it must first submit an analysis and business plan to the office of financial management and either the joint transportation

committee or the transportation committees of the legislature. The commission may impose a ferry fuel surcharge effective July 1, 2011. When implementing a ferry fuel surcharge, the commission must regard ferry fuel surcharges as fare policy changes and thus, ferry fuel surcharges should be included in all public procedures and processes currently used for fare pricing per RCW 47.60.290.

(7) The commission shall work with the department of transportation's economic partnerships (Program K) in conducting a best practices review of nontoll, public-private partnerships. The purpose of this review is to identify the policies and procedures that would be appropriate for application in Washington state. The commission must report its findings and recommendations, including draft legislation if warranted, to the house of representatives and senate transportation committees by January 2011.

(8) As part of its development of the statewide transportation plan, the commission shall review prioritized projects, including preservation and maintenance projects, from regional transportation and metropolitan planning organizations to identify statewide transportation needs. The review should include a brief description and status of each project along with the funding required and associated timeline from start to completion. The commission shall submit the review, along with recommendations, to the house of representatives and senate transportation committees by January 2011.

Sec. 206. 2009 c 470 s 206 (uncodified) is amended to read as follows:

FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD

Motor Vehicle Account--State Appropriation.....	(\$695,000)
	<u>\$688,000</u>

The appropriation in this section is subject to the following conditions and limitations: The freight mobility strategic investment board shall, on a quarterly basis, provide status reports to the office of financial management and the transportation committees of the legislature on the delivery of projects funded by this act.

Sec. 207. 2009 c 470 s 207 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL--FIELD OPERATIONS BUREAU

State Patrol Highway Account--State	
Appropriation.....	(\$228,024,000)
	<u>\$227,958,000</u>
State Patrol Highway Account--Federal	
Appropriation.....	(\$10,602,000)
	<u>\$10,903,000</u>
State Patrol Highway Account--Private/Local	
Appropriation.....	(\$859,000)
	<u>\$867,000</u>
TOTAL APPROPRIATION.....	(\$239,485,000)
	<u>\$239,728,000</u>

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

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol shall be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol, and Cessna pilots funded from the state patrol highway account who are certified to fly the King Airs may pilot those aircraft for general fund purposes with the general fund

reimbursing the state patrol highway account an hourly rate to cover the costs incurred during the flights since the aviation section will no longer be part of the Washington state patrol cost allocation system as of July 1, 2009.

(2) The patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the office of financial management and transportation committees of the legislature by September 30th of each year.

(3) During the 2009-11 fiscal biennium, the Washington state patrol shall continue to perform traffic accident investigations on Thurston county roads, and shall work with the county to transition the traffic accident investigations on Thurston county roads to the county by July 1, 2011.

(4) Within existing resources, the Washington state patrol shall make every reasonable effort to increase the enrollment in each academy class that commences during the 2009-11 fiscal biennium to fifty-five cadets.

(5) The Washington state patrol shall collaborate with the Washington traffic safety commission to develop and implement the target zero trooper pilot program referenced in section 201 of this act.

~~(6) ((The Washington state patrol shall discuss the implementation of the pilot program described under section 218(2) of this act with any union representing the affected employees.~~

~~—(7) The Washington state patrol shall assign necessary personnel and equipment to implement and operate the pilot program described under section 218(2) of this act using the portion of the automated traffic safety camera fines deposited into the state patrol highway account, but not to exceed \$370,000. If the fines deposited into the state patrol highway account from automated traffic safety camera infractions do not reach \$370,000, the department of transportation shall remit funds necessary to the Washington state patrol to ensure the completion of the pilot program.) \$370,000 of the state patrol highway account--state appropriation is provided solely for costs associated with the pilot program described under section 218(2) of this act. The Washington state patrol may incur costs related only to the assignment of cadets and necessary computer equipment and to the reimbursement of the Washington state department of transportation for contract costs. The appropriation in this subsection must be funded from the portion of the automated traffic safety camera fines deposited into the state patrol highway account; however, if the fines deposited into the state patrol highway account from automated traffic safety camera infractions do not reach three hundred seventy thousand dollars, the department of transportation shall remit funds necessary to the Washington state patrol to ensure the completion of the pilot program. The Washington state patrol may not incur overtime as a result of this pilot program. The Washington state patrol shall not assign troopers to operate or deploy the pilot program equipment used in the roadway construction zones.~~

~~(7) If, as a result of lower than average rate of attrition among troopers, the Washington state patrol postpones the year 2011 training for trooper cadets beyond June 30, 2011, funding provided in section 207, chapter 470, Laws of 2009 for the class must be used to fund the salaries and benefits associated with the existing commissioned Washington state patrol troopers that are funded within the field operations bureau.~~

~~(8) \$2,832,000 of the state patrol highway account--state appropriation is provided solely for the aerial traffic enforcement program. The Washington state patrol shall evaluate the costs associated with aerial traffic highway enforcement to determine if the costs are accurately apportioned between the state patrol highway account and the general fund. It is the intent of the legislature that the state patrol highway account incurs costs that~~

result only from highway enforcement activities and that the general fund incurs costs associated with the King Airs. The Washington state patrol shall report the results of the evaluation to the legislature by June 30, 2010.

(9) For the remainder of the 2009-11 fiscal biennium, the Washington state patrol shall continue to work with Island county on traffic accident investigations.

(10) \$3,601,000 of the state patrol highway account--state appropriation is provided solely for the costs associated with a basic trooper class.

Sec. 208. 2009 c 470 s 208 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL--INVESTIGATIVE SERVICES BUREAU
State Patrol Highway Account--State Appropriation..((~~\$1,557,000~~))
\$1,648,000

Sec. 209. 2009 c 470 s 209 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL--TECHNICAL SERVICES BUREAU
State Patrol Highway Account--State Appropriation.....((~~\$105,680,000~~))
\$108,560,000
State Patrol Highway Account--Private/Local Appropriation.....((~~\$2,008,000~~))
\$2,510,000
TOTAL APPROPRIATION.....((~~\$107,688,000~~))
\$111,070,000

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

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

(2) ((~~\$8,673,000~~)) \$10,425,000 of the total appropriation is provided solely for automobile fuel in the 2009-11 fiscal biennium.

(3) \$7,421,000 of the total appropriation is provided solely for the purchase of pursuit vehicles.

(4) ((~~\$6,328,000~~)) \$6,611,000 of the total appropriation is provided solely for vehicle repair and maintenance costs of vehicles used for highway purposes.

(5) ((~~\$384,000~~)) \$1,724,000 of the total appropriation is provided solely for the purchase of mission vehicles used for highway purposes in the commercial vehicle and traffic investigation sections of the Washington state patrol.

(6) The Washington state patrol may submit information technology- related requests for funding only if the patrol has coordinated with the department of information services as required under section 601 of this act.

(7) \$345,000 of the state patrol highway account--state appropriation is provided solely for the implementation of Engrossed Substitute House Bill No. 1445 (domestic partners/Washington state patrol retirement system). If Engrossed Substitute House Bill No. 1445 is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

Sec. 210. 2009 c 470 s 210 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING
Marine Fuel Tax Refund Account--State Appropriation.....\$32,000
Motorcycle Safety Education Account--State Appropriation.....((~~\$4,373,000~~))

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

	<u>\$4,356,000</u>
Wildlife Account--State Appropriation.....	((\$837,000))
	<u>\$821,000</u>
Highway Safety Account--State Appropriation.....	((\$145,085,000))
	<u>\$143,660,000</u>
Highway Safety Account--Federal Appropriation.....	((\$8,000))
	<u>\$944,000</u>
Motor Vehicle Account--State Appropriation.....	((\$78,805,000))
	<u>\$77,898,000</u>
Motor Vehicle Account--Private/Local Appropriation...	\$1,372,000
Motor Vehicle Account--Federal Appropriation.....	\$242,000
Department of Licensing Services Account--State	
Appropriation.....	((\$3,867,000))
	<u>\$4,705,000</u>
Washington State Patrol Highway Account--State	
Appropriation.....	((\$738,000))
	<u>\$737,000</u>
Ignition Interlock Device Revolving Account--State	
Appropriation.....	((\$2,490,000))
	<u>\$1,315,000</u>
TOTAL APPROPRIATION.....	((\$237,849,000))
	<u>\$236,082,000</u>

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

(1)(a) By November 1, 2009, the department of licensing, working with the department of revenue, shall analyze and plan for the transfer by July 1, 2010, of the administration of fuel taxes imposed under chapters 82.36, 82.38, 82.41, and 82.42 RCW and other provisions of law from the department of licensing to the department of revenue. By November 1, 2009, the departments shall report findings and recommendations to the governor and the transportation and fiscal committees of the legislature.

(b) The analysis and planning directed under this subsection must include, but is not limited to, the following:

(i) Outreach to and solicitation of comment from parties affected by the fuel taxes, including taxpayers, industry associations, state and federal agencies, and Indian tribes, and from the transportation and fiscal committees of the legislature; and

(ii) Identification and analysis of relevant factors including, but not limited to:

- (A) Taxpayer reporting and payment processes;
- (B) The international fuel tax agreement;
- (C) Proportional registration under the provisions of the international registration plan and chapter 46.87 RCW;
- (D) Computer systems;
- (E) Best management practices and efficiencies;
- (F) Costs; and
- (G) Personnel matters(;

~~—(iii) Development of recommended actions to accomplish the transfer; and~~

~~—(iv) An implementation plan and schedule.~~

~~—(e) The report must include draft legislation, which transfers administration of fuel taxes as described under (a) of this subsection to the department of revenue on July 1, 2010, and amends existing law as needed).~~

(2) \$55,845,000 of the highway safety account--state appropriation is provided solely for the driver examining program. In order to reduce costs and make the most efficient use of existing resources, the department may consolidate licensing service offices by closing the vehicle services counter at the highways licensing building in Olympia and up to twenty-five licensing service offices.

(a) When closing offices, the department may redistribute staff from consolidated offices to neighboring offices and local community supercenters.

(b) In order to mitigate the effects of office consolidations on customers, the department shall, within existing resources, provide the following enhanced services:

(i) Extended daily and weekend hours in regional supercenter offices;

(ii) Staffed greeter stations to improve office work flow; and

(iii) Self-service stations for online transaction access, including vehicle renewal transactions.

(c) In areas that are not consolidated, the department will work to reduce costs by identifying opportunities to share facilities with subagent offices and state, county, or local government offices and by analyzing hours and days of operation to meet demand.

(d) The department shall work with vehicle licensing subagents regarding potential placement of self-service driver licensing kiosks in communities that will be affected by licensing services offices closures. The department may place kiosks in those subagent offices where both parties agree, and may pay the subagents the fair market value for any space used for kiosks.

(e) The department shall report to the joint transportation committee by November 30, 2009, on the department's consolidation implementation to date and its plan for continued implementation.

(3) \$11,688,000 of the highway safety account--state appropriation is provided solely for costs associated with: Issuing enhanced drivers' licenses and identicards at the enhanced licensing services offices; extended hours at those licensing services offices; cross- border tourism education; and other education campaigns. This is the maximum amount the department may expend for this purpose.

(4) ~~((~~\$2,490,000~~))~~ \$1,315,000 of the ignition interlock device revolving account--state appropriation is provided solely for the department to assist indigent persons with the costs of installing, removing, and leasing the device, and applicable licensing pursuant to RCW 46.68.340.

(5) By December 31, 2009, the department shall report to the office of financial management and the transportation committees of the legislature a cost-benefit analysis of leasing versus purchasing field office equipment.

(6) By December 31, 2009, the department shall submit to the office of financial management and the transportation committees of the legislature draft legislation that rewrites RCW 46.52.130 (driving record abstracts) in plain language.

(7) The department may seek federal funds to implement a driver's license and identicard biometric matching system pilot program to verify the identity of applicants for, and holders of, drivers' licenses and identicards. If funds are received, the department shall report any benefits or problems identified during the course of the pilot program to the transportation committees of the legislature upon the completion of the program.

(8) The department may submit information technology-related requests for funding only if the department has coordinated with the department of information services as required under section 601 of this act.

(9) Consistent with the authority delegated to the director of licensing under RCW 46.01.100, the department may adopt a new organizational structure that includes the following programs: (a) Driver and vehicle services, which must encompass services relating to driver licensing customers, vehicle industry and fuel tax licensees, and vehicle and vessel licensing and registration; and (b) driver policy and programs, which must encompass policy development for all driver-related programs, including driver examining, driver records, commercial driver's license testing and auditing, driver training schools, motorcycle safety, technical services, hearings, driver special investigations, drivers' data

management, central issuance contract management, and state and federal initiatives.

(10) The legislature finds that measuring the performance of the department requires the measurement of quality, timeliness, and unit cost of services delivered to customers. Consequently:

(a) The department shall develop a set of metrics that measure that performance and report to the transportation committees of the house of representatives and the senate and to the office of financial management on the development of these measurements along with recommendations to the 2010 legislature on which measurements must become a part of the next omnibus transportation appropriations act;

(b) The department shall study the process in place at the licensing services office and present to the 2010 legislature recommendations for process changes to improve efficiencies for both the department and the customer; and

(c) The department shall, on a quarterly basis, report to the transportation committees of the legislature the following monthly data by licensing service office locations: (i) Lease costs; (ii) salary and benefit costs; (iii) other costs; (iv) actual FTEs; (v) number of transactions completed, by type of transaction; and (vi) office hours.

(11) \$25,000 of the motor vehicle account--state appropriation is provided solely for the department to provide to at least five hundred limousine chauffeurs an overview of the laws and rules governing limousine carriers.

(12) \$938,000 of the highway safety account--federal appropriation is for federal funds that may be received during the 2009-11 fiscal biennium. Upon receipt of the funds, the department shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

(13) \$869,000 of the department of licensing services account--state appropriation is provided solely for purchasing equipment for the field licensing service offices and subagent offices.

Sec. 211. 2009 c 470 s 211 (uncodified) is amended to read as follows:

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

High Occupancy Toll Lanes Operations Account--State Appropriation.....	((\$2,867,000))
	<u>\$2,852,000</u>
Motor Vehicle Account--State Appropriation.....	((\$585,000))
	<u>\$575,000</u>
Tacoma Narrows Toll Bridge Account--State Appropriation.....	((\$27,358,000))
	<u>\$26,543,000</u>
State Route Number 520 Corridor Account--State Appropriation.....	((\$58,088,000))
	<u>\$28,000,000</u>
State Route Number 520 Civil Penalties Account--State Appropriation.....	((\$88,898,000))
	<u>\$2,130,000</u>
TOTAL APPROPRIATION.....	((\$88,898,000))
	<u>\$60,100,000</u>

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

(1) The department shall make detailed quarterly expenditure reports available to the transportation commission and to the public on the department's web site using current department resources. The reports must include a summary of revenue generated by tolls on the Tacoma Narrows bridge and an itemized depiction of the use of that revenue.

(2) The department shall work with the office of financial management to review insurance coverage, deductibles, and limitations on tolled facilities to assure that the assets are well protected at a reasonable cost. Results from this review must be used to negotiate any future new or extended insurance agreements.

~~(3) ((~~\$58,088,000~~)) \$28,000,000 of the state route number 520 corridor account--state appropriation is provided solely for the costs directly related to tolling the state route number 520 floating bridge. Of this amount, ((~~\$175,000 is for the immediate costs necessary to pursue a request for proposal to implement variable, open road tolling on the state route number 520 floating bridge. The request for proposal must include tolling infrastructure and signage, customer service centers, collection and billing procedures, and, to the extent practicable, the maintenance and dispensing of transponders by the vendor. The remaining \$57,913,000~~)) \$8,000,000 must be retained in unallotted status, and may only be released by the office of financial management after consultation with the joint transportation committee ((following the committee's examination of toll operations costs referenced in section 204(2) of this act. The amount provided in this subsection is contingent on the enactment of (a) Engrossed Substitute House Bill No. 2211 and (b) either Engrossed Substitute House Bill No. 2326 or other legislation authorizing bonds for the state route number 520 corridor projects. If the conditions of this subsection are not satisfied, the amount provided in this subsection shall lapse).~~

(4) The department shall consider transitioning to all electronic tolling on the Tacoma Narrows bridge toll facility and discontinuing a cash toll option.

(5) \$2,130,000 of the state route number 520 civil penalties account--state appropriation and \$140,000 of the Tacoma Narrows toll bridge account--state appropriation are provided solely for expenditures related to the toll adjudication process. The amount provided in this subsection is contingent on the enactment by June 30, 2010, of either Engrossed Substitute Senate Bill No. 6499 or Substitute House Bill No. 2897; however, if the enacted bill does not specify the department as the toll penalty adjudicating agency, the amounts provided in this subsection lapse.

(6) The department shall review, and revise where appropriate, current signage and ingress/egress locations on the state route number 167 high occupancy toll lanes pilot project. The department shall continue to work with the Washington state patrol on educating the public on the rules of the road related to crossing a double white line. The department shall continue to monitor the performance of the high occupancy toll lanes to ensure that driving conditions for high occupancy vehicles that share these lanes are not significantly changed.

Sec. 212. 2009 c 470 s 212 (uncodified) is amended to read as follows:

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

Transportation Partnership Account--State Appropriation.....	\$2,675,000
Motor Vehicle Account--State Appropriation.....	((\$67,811,000))
	<u>\$68,650,000</u>
Motor Vehicle Account--Federal Appropriation.....	\$240,000
Multimodal Transportation Account--State Appropriation.....	\$363,000
Transportation 2003 Account (Nickel Account)--State Appropriation.....	\$2,676,000
TOTAL APPROPRIATION.....	((\$73,765,000))
	<u>\$74,604,000</u>

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

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

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

information used by the department and other state agencies and to avoid duplication.

(2) \$1,216,000 of the transportation partnership account--state appropriation and \$1,216,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for the department to develop a project management and reporting system which is a collection of integrated tools for capital construction project managers to use to perform all the necessary tasks associated with project management. The department shall integrate commercial off-the-shelf software with existing department systems and enhanced approaches to data management to provide web-based access for multi-level reporting and improved business work flows and reporting. On a quarterly basis, the department shall report to the office of financial management and the transportation committees of the legislature on the status of the development and integration of the system. At a minimum, the reports shall indicate the status of the work as it compares to the work plan, any discrepancies, and proposed adjustments necessary to bring the project back on schedule or budget if necessary.

(3) The department may submit information technology-related requests for funding only if the department has coordinated with the department of information services as required under section 601 of this act.

(4) \$573,000 of the motor vehicle account--state appropriation is provided solely for the department to maintain the investment in the electronic fare system at Washington's ferry terminals. Investment in the electronic fare system must include the following: Replacement of critical hardware components that are at risk of failure; implementation of software to allow ORCA cards to be used for vehicles; repair of the turnstiles to ensure that the turnstiles properly record ORCA credit and debit card charges; and dedication of a communication line for transmission of ORCA data to the clearinghouse.

Sec. 213. 2009 c 470 s 213 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--FACILITY MAINTENANCE, OPERATIONS AND CONSTRUCTION--PROGRAM D--OPERATING	
Motor Vehicle Account--State Appropriation.....	((\$25,501,000))
	\$25,292,000

Sec. 214. 2009 c 470 s 214 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--AVIATION--PROGRAM F	
Aeronautics Account--State Appropriation.....	((\$6,009,000))
	\$5,960,000
Aeronautics Account--Federal Appropriation.....	\$2,150,000
TOTAL APPROPRIATION.....	((\$8,159,000))
	\$8,110,000

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

(1) \$50,000 of the aeronautics account--state appropriation is a reappropriation provided solely to pay any outstanding obligations of the aviation planning council, which expires July 1, 2009.

(2) \$150,000 of the aeronautics account--state appropriation is a reappropriation provided solely to complete runway preservation projects.

(3) Within the amounts provided in this section, the department shall develop guidelines setting forth consultation procedures and a process to assist counties and cities to identify land uses that may be incompatible with airports and aircraft operations, and to encourage and facilitate the adoption and implementation of comprehensive plan policies and development regulations consistent with RCW 36.70.547 and 36.70A.510.

Sec. 215. 2009 c 470 s 215 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM MANAGEMENT AND SUPPORT--PROGRAM H	
Motor Vehicle Account--State Appropriation.....	((\$48,032,000))
	\$49,331,000
Motor Vehicle Account--Federal Appropriation.....	\$500,000
Multimodal Transportation Account--State Appropriation.....	\$250,000
((Water Pollution Account--State Appropriation.....))	((\$2,000,000))
TOTAL APPROPRIATION.....	((\$50,782,000))
	\$50,081,000

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

(1) The department shall develop a plan for all current and future surplus property parcels based on the recommendations from the surplus property legislative work group that were presented to the senate transportation committee on February 26, 2009. The plan must include, at a minimum, strategies for maximizing the number of parcels sold, a schedule that optimizes proceeds, a recommended cash discount, a plan to report to the joint transportation committee, a recommendation for regional incentives, and a recommendation for equivalent value exchanges. This plan must accompany the department's 2010 supplemental budget request. If the department determines that all or a portion of real property or an interest in real property that was acquired through condemnation within the previous ten years is no longer necessary for a transportation purpose, the former owner has a right of repurchase as described in this subsection. For the purposes of this subsection, "former owner" means the person or entity from whom the department acquired title. At least ninety days prior to the date on which the property is intended to be sold by the department, the department must mail notice of the planned sale to the former owner of the property at the former owner's last known address or to a forwarding address if that owner has provided the department with a forwarding address. If the former owner of the property's last known address, or forwarding address if a forwarding address has been provided, is no longer the former owner of the property's address, the right of repurchase is extinguished. If the former owner notifies the department within thirty days of the date of the notice that the former owner intends to repurchase the property, the department shall proceed with the sale of the property to the former owner for fair market value and shall not list the property for sale to other owners. If the former owner does not provide timely written notice to the department of the intent to exercise a repurchase right, or if the sale to the former owner is not completed within seven months of the date of notice that the former owner intends to repurchase the property, the right of repurchase is extinguished. By December 1, 2010, the department shall report to the legislative transportation committees on the individuals and entities eligible to receive surplus property provided in RCW 47.12.063 to determine the frequency with which the department transfers property to those individuals and entities and the implications to the department. It is the intent of the legislature that the list of individuals and entities eligible to receive surplus property be periodically evaluated to determine whether the list is appropriate and provides utility to the department.

~~((3))~~ (2) The legislature recognizes that the Dryden pit site (WSDOT Inventory Control (IC) No. 2-04-00103) is unused state-owned real property under the jurisdiction of the department of transportation, and that the public would benefit significantly from the complete enjoyment of the natural scenic beauty and recreational opportunities available at the site. Therefore, pursuant to RCW 47.12.080, the legislature declares that transferring the

property to the department of fish and wildlife for recreational use and fish and wildlife restoration efforts is consistent with the public interest in order to preserve the area for the use of the public and the betterment of the natural environment. The department of transportation shall ~~(, as soon as is practicable,)~~ work with the department of fish and wildlife, and shall transfer and convey the Dryden pit site to the department of fish and wildlife as is for ~~((adequate consideration in the amount of no less than \$600,000))~~ an adjusted fair market value reflecting site conditions, the proceeds of which must be deposited in the motor vehicle fund. ((By July 1, 2009)) The department of transportation is not responsible for any costs associated with the cleanup or transfer of this property. By July 1, 2010, and annually thereafter until the entire Dryden pit property has been transferred, the department shall submit a status report regarding the transaction to the chairs of the legislative transportation committees.

~~((5))~~ (3) \$3,175,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit. The department's work may include the completion of system development, reporting, and planning to meet deadlines in the current biennium. The appropriation provided in this subsection is contingent on either the joint legislative audit and review committee or the joint transportation committee including the analysis identified in sections 108(4) and 204 of this act in its respective 2009-11 fiscal biennium work plan by April 15, 2010.

~~((6))~~ (4) The department shall provide updated information on six project milestones for all active projects, funded in part or in whole with 2005 transportation partnership account funds or 2003 nickel account funds, on a quarterly basis in the transportation executive information system (TEIS). The department shall also provide updated information on six project milestones for projects, funded with preexisting funds and that are agreed to by the legislature, office of financial management, and the department, on a quarterly basis in TEIS.

(5) It is the intent of the legislature that the real estate services division of the department will recover the cost of its efforts from future sale proceeds. By January 31, 2011, the department must report to the office of financial management and the legislative transportation committees on the status of surplus property. The report must include: (a) The department's plan for continued disposal of surplus property; (b) a detail of changes from the previous report; and (c) a current list of surplus property by region that includes the acquisition date and price of the property, the status of the surplus property, and estimated value of the property. Except as provided otherwise in this subsection, by June 30, 2010, the department must finalize all pending equal value exchange activity for the construction or improvement of facilities, after which time the department may not pursue any other equal value exchanges for the construction or improvement of facilities. However, the northwest region may pursue an equal value exchange to replace the Mount Baker headquarters office. The exchange may include an exchange for the old Puget Sound energy site, the old Arco site, or any combination of the two.

Sec. 216. 2009 c 470 s 216 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--ECONOMIC PARTNERSHIPS--PROGRAM K	
Motor Vehicle Account--State Appropriation.....	((615,000)) \$673,000
Multimodal Transportation Account--State Appropriation	\$200,000
TOTAL APPROPRIATION.....	((815,000)) \$873,000

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

(1) \$200,000 of the multimodal transportation account--state appropriation is provided solely for the department to develop and implement public private partnerships at high priority terminals as identified in the January 12, 2009, final report on joint development opportunities at Washington state ferries terminals. The department shall first consider a mutually beneficial agreement at the Edmonds terminal.

(2) \$50,000 of the motor vehicle account--state appropriation is provided solely for the department to investigate the potential to generate revenue from web site sponsorships and similar ventures and, if feasible, pursue partnership opportunities.

(3) \$75,000 of the motor vehicle account--state appropriation is provided solely for the implementation of a pilot project allowing advertisements and sponsorships on select web pages. The pilot project must be organized under the partnership model described in the department's web site monetizing feasibility study, which was prepared under subsection (2) of this section. Once operational, the pilot project must operate for at least twelve consecutive months. After twelve months of continuous operation, the department shall provide a report with recommendations on whether to continue project operations to the office of financial management and the chairs of the transportation committees. The department may end the pilot project after less than twelve consecutive months of operation if insufficient bids or proposals are received from potential sponsors or advertisers. For the purpose of this subsection, if a consultant contract is warranted, the consultant contract is deemed a revenue generation activity as that term is construed in section 602(2), chapter 3, Laws of 2010.

Sec. 217. 2009 c 470 s 217 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--HIGHWAY MAINTENANCE--PROGRAM M	
Motor Vehicle Account--State Appropriation.....	((347,637,000)) \$347,645,000
Motor Vehicle Account--Federal Appropriation.....	((2,000,000)) \$7,000,000
Motor Vehicle Account--Private/Local Appropriation...	\$5,797,000
((Water Pollution Account--State Appropriation.....	\$12,500,000))
TOTAL APPROPRIATION.....	((367,934,000)) \$360,442,000

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

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

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

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

(4) ~~((2,000,000))~~ \$7,000,000 of the motor vehicle account--federal appropriation is for unanticipated federal funds that may be received during the 2009-11 fiscal biennium. Upon receipt of the funds, the department shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

(5) The department may incur costs related to the maintenance of the decorative lights on the Tacoma Narrows bridge only if:

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

(a) The nonprofit corporation, narrows bridge lights organization, maintains an account balance sufficient to reimburse the department for all costs; and

(b) The department is reimbursed from the narrows bridge lights organization within three months from the date any maintenance work is performed. If the narrows bridge lights organization is unable to reimburse the department for any future costs incurred, the lights must be removed at the expense of the narrows bridge lights organization subject to the terms of the contract.

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

(7) \$650,000 of the motor vehicle account--state appropriation is provided solely for increased asphalt costs. ~~((If Senate Bill No. 5976 is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.))~~

(8) \$16,800,000 of the motor vehicle account--state appropriation is provided solely for the high priority maintenance backlog. Addressing the maintenance backlog must result in increased levels of service.

~~((4))~~ (9) \$750,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

(10) \$317,000 of the motor vehicle account--state appropriation is provided solely for maintaining a new active traffic management system on Interstate 5, Interstate 90, and SR 520. The department shall track the costs associated with these systems on a corridor basis and report to the legislative transportation committees on the cost and benefits of the system.

(11) \$286,000 of the motor vehicle account--state appropriation is provided solely for storm water assessment fees charged by local governments.

Sec. 218. 2009 c 470 s 218 (uncodified) is amended to read as follows:

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

Motor Vehicle Account--State Appropriation.....	(\$51,526,000)
	<u>\$51,128,000</u>
Motor Vehicle Account--Federal Appropriation.....	\$2,050,000
Motor Vehicle Account--Private/Local Appropriation....	\$127,000
TOTAL APPROPRIATION.....	(\$53,703,000)
	<u>\$53,305,000</u>

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

(1) \$2,400,000 of the motor vehicle account--state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis. By September 1st of each even-numbered year, the department shall provide a report to the legislature listing all low-cost enhancement projects prioritized on a statewide rather than regional basis completed in the prior year.

(2) The department, in consultation with the Washington state patrol, may continue a pilot program for the patrol to issue infractions based on information from automated traffic safety cameras in roadway construction zones on state highways. For the purpose of this pilot program, during the 2009-11 fiscal biennium, a roadway construction zone includes areas where public employees or private contractors are not present but where a driving condition exists that would make it unsafe to drive at higher speeds, such as, when the department is redirecting or realigning lanes on any public roadway pursuant to ongoing construction. The department shall use the following guidelines to administer the program:

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

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

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

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

(e) For purposes of the 2009-11 fiscal biennium pilot program, infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras must be processed in the same manner as parking infractions for the purposes of RCW 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3). However, the amount of the fine issued under this subsection (2) for an infraction generated through the use of an automated traffic safety camera is one hundred thirty-seven dollars. The court shall remit thirty-two dollars of the fine to the state treasurer for deposit into the state patrol highway account; and

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

(3) The department shall implement a pilot project to evaluate the benefits of using electronic traffic flagging devices. Electronic traffic flagging devices must be tested by the department at multiple sites and reviewed for efficiency and safety. The department shall report to the transportation committees of the legislature on the best use and practices involving electronic traffic flagging devices, including recommendations for future use, by June 30, 2010.

(4) \$173,000 of the motor vehicle account--state appropriation is provided solely for the department to continue a pilot tow truck incentive program and to expand the program to other areas of the state. The department may provide incentive payments to towing companies that meet clearance goals on accidents that involve heavy trucks. The department shall report to the office of financial management and the transportation committees of the legislature on the effectiveness of the clearance goals and submit recommendations to improve the pilot program with the department's 2010 supplemental omnibus transportation appropriations act submittal. The tow truck incentive program may continue to provide incentives for quick clearance of traffic incidents involving large vehicles. The department shall make

recommendations as part of its biennial budget proposal for expanding the use of the incentive program.

(5) \$92,000 of the motor vehicle account--state appropriation is provided solely for operating a new active traffic management system on Interstate 5, Interstate 90, and SR 520. The department shall track the costs associated with these systems on a corridor basis and report to the legislative transportation committees on the cost and benefits of the system.

(6) To the extent practicable, the department shall synchronize traffic lights on state route number 161 in the vicinity of Puyallup.

(7) During the 2009-11 biennium, the department shall implement a pilot program that expands private transportation providers' access to high occupancy vehicle lanes. Under the pilot program, when the department reserves a portion of a highway based on the number of passengers in a vehicle, the following vehicles must be authorized to use the reserved portion of the highway if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles. For purposes of this subsection, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees. By June 30, 2011, the department shall report to the transportation committees of the legislature on whether private transportation provider use of high occupancy vehicle lanes under the pilot program reduces the speeds of high occupancy vehicle lanes. Nothing in this subsection is intended to authorize the conversion of public infrastructure to private, for-profit purposes or to otherwise create an entitlement or other claim by private users to public infrastructure.

Sec. 219. 2009 c 470 s 219 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION MANAGEMENT AND SUPPORT--PROGRAM S	
Motor Vehicle Account--State Appropriation.....	(((\$29,153,000)) \$28,468,000
Motor Vehicle Account--Federal Appropriation.....	\$30,000
Multimodal Transportation Account--State Appropriation.....	(((\$973,000)) \$971,000
State Route Number 520 Corridor Account--State Appropriation.....	\$264,000
TOTAL APPROPRIATION.....	(((\$30,420,000)) \$29,733,000

The appropriations in this section are subject to the following conditions and limitations: \$264,000 of the state route number 520 corridor account--state appropriation is provided solely for the costs directly related to tolling the state route number 520 floating bridge. This amount must be retained in unallotted status, and may only be released by the office of financial management after consultation with the joint transportation committee ((following the committee's examination of toll operations costs referenced in section 204(2) of this act. The amount provided in this section is contingent on the enactment of (1) Engrossed Substitute House Bill No. 2211 and (2) either Engrossed Substitute House Bill No. 2326 or other legislation authorizing bonds for the state route number 520 corridor projects. If the conditions of this section are not satisfied, the amount provided in this section shall lapse)).

Sec. 220. 2009 c 470 s 220 (uncodified) is amended to read as follows:

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

Motor Vehicle Account--State Appropriation.....	(((\$24,724,000)) \$25,955,000
Motor Vehicle Account--Federal Appropriation....	(((\$19,116,000)) \$22,002,000
Multimodal Transportation Account--State Appropriation.....	(((\$696,000)) \$1,090,000
Multimodal Transportation Account--Federal Appropriation.....	(((\$2,809,000)) \$3,287,000
Multimodal Transportation Account--Private/Local Appropriation.....	(((\$100,000)) \$99,000
TOTAL APPROPRIATION.....	(((\$47,445,000)) \$52,433,000

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

(1) \$150,000 of the motor vehicle account--federal appropriation is provided solely for the costs to develop an electronic map-based computer application that will enable law enforcement officers and others to more easily locate collisions and other incidents in the field.

(2) \$400,000 of the ((motor vehicle account)) multimodal transportation account--state appropriation is provided solely for a diesel multiple unit feasibility and initial planning study. The study must evaluate potential service on the Stampede Pass line from Maple Valley to Auburn via Covington. The study must evaluate the potential demand for service, the business model and capital needs for launching and running the line, and the need for improvements in switching, signaling, and tracking. The study must also consider the interconnectivity benefits of, and potential for, future Amtrak Cascades stops in south King county and north Pierce county. As part of its consideration, the department shall conduct a thorough market analysis of the potential for adding or changing stops on the Amtrak Cascades route. The department shall amend the scope, schedule, and budget of the current study process to accommodate the market analysis. A report on the study must be submitted to the legislature by ((June)) September 30, 2010.

(3) (((\$243,000)) \$365,000) of the motor vehicle account--state appropriation and \$81,000 of the motor vehicle account--federal appropriation are provided solely for the development of a freight database to help guide freight investment decisions and track project effectiveness. The database must be based on truck movement tracked through geographic information system technology. For the remainder of the biennium, the department may expand data collection to any highways that have high truck volumes. TransNow shall contribute additional federal funds that are not appropriated in this act. The department shall work with the freight mobility strategic investment board to implement this database.

(4) \$2,000,000 of the motor vehicle account--state appropriation is provided solely for scoping unfunded state highway projects to ensure that a well-vetted project list is available for future program funding discussions.

(a) It is the intent of the legislature that the funding provided in this subsection support the development of transportation solutions that benefit all state residents, including addressing the impacts of traffic diversion from tolled facilities. It is further the intent of the legislature that the buying power of future revenue packages is maximized.

(b) Scoping work must be consistent with achieving transportation system policy goals as stated in RCW 47.04.280.

(c) The department shall provide cost-effective design solutions that achieve the desired functional outcomes. This may be

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

achieved by providing one or more design alternatives for legislative consideration, based on a reasonable range of assumptions about traffic volume and speeds.

(d) Prior to the commencement of the 2011 legislative session, the department shall provide a report to the legislative transportation committees and the office of financial management that includes estimated costs and construction time frames.

(5) \$150,000 of the motor vehicle account--state appropriation is provided solely for a corridor study of state route number 516 from the eastern border of Maple Valley to state route number 167 to determine whether improvements are needed and the costs of any needed improvements.

(6) \$500,000 of the multimodal transportation account--federal appropriation is provided solely for continued support of the International Mobility and Trade Corridor project and for the department to work with the Whatcom council of governments to examine potential improvements to international border freight and passenger rail movement and the use of diesel multiple units.

(7) \$80,000 of the motor vehicle account--state appropriation is provided solely to continue existing work regarding feasibility of a new interchange between Rochester and Harrison Avenue on Interstate 5.

Sec. 221. 2009 c 470 s 222 (uncodified) is amended to read as follows:

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

Regional Mobility Grant Program Account--State	
Appropriation.....	(\$54,677,000)
	<u>\$65,274,000</u>
Multimodal Transportation Account--State	
Appropriation.....	(\$65,795,000)
	<u>\$65,667,000</u>
Multimodal Transportation Account--Federal	
Appropriation.....	(\$2,582,000)
	<u>\$2,573,000</u>
Multimodal Transportation Account--Private/Local	
Appropriation.....	(\$1,027,000)
	<u>\$1,025,000</u>
TOTAL APPROPRIATION.....	(\$124,081,000)
	<u>\$134,539,000</u>

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

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

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

(b) \$19,500,000 of the amount provided in this subsection is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2007 as reported in the "Summary of Public Transportation - 2007" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

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

(a) \$8,500,000 of the multimodal transportation account--state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the "Summary of Public Transportation - 2007" published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

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

(3) \$7,000,000 of the multimodal transportation account--state appropriation is provided solely for a vanpool grant program for: (a) Public transit agencies to add vanpools or replace vans; and (b) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; operating costs for public transit agencies are not eligible for funding under this grant program. Additional employees may not be hired from the funds provided in this section for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. The department shall encourage grant applicants and recipients to leverage funds other than state funds. At least \$1,600,000 of this amount must be used for vanpool grants in congested corridors.

(4) \$400,000 of the multimodal transportation account--state appropriation is provided solely for a grant for a flexible carpooling pilot project program to be administered and monitored by the department. Funds are appropriated for one time only. The pilot project program must: Test and implement at least one flexible carpooling system in a high-volume commuter area that enables carpooling without prearrangement; utilize technologies that, among other things, allow for transfer of ride credits between participants; and be a membership system that involves prescreening to ensure safety of the participants. The program must include a pilot project that targets commuter traffic on the state route number 520 bridge. The department shall submit to the legislature by December 2010 a report on the program results and any recommendations for additional flexible carpooling programs.

(5) \$3,318,000 of the multimodal transportation account--state appropriation and \$21,248,000 of the regional mobility grant program account--state appropriation are reappropriated and provided solely for the regional mobility grant projects identified on the LEAP Transportation Document 2007-B, as developed April 20, 2007, or the LEAP Transportation Document 2006-D, as developed March 8, 2006. The department shall continue to review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. The department shall promptly close out grants when projects have been completed, and any remaining funds available to the office of transit mobility must be used only to fund projects on the LEAP Transportation Document 2006-D, as developed March 8, 2006; the LEAP Transportation Document 2007-B, as developed April 20, 2007; or the LEAP Transportation Document 2009-B, as developed April 24, 2009. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule. However, the Chuckanut park and ride project (101100G) is recognized as a crucial investment in the transportation system. For this reason, the department shall not close out the grant for the Chuckanut park and ride project until Skagit transit has exhausted all other pending opportunities for federal and local funds. If additional funds cannot be secured, the department shall consider this project a priority in the 2011-13 grant process. The department

shall make every effort to advance the Chuckanut park and ride project within existing resources.

(6) \$33,429,000 of the regional mobility grant program account-- state appropriation is provided solely for the regional mobility grant projects identified in LEAP Transportation Document 2009-B, as developed April 24, 2009. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and any remaining funds available to the office of transit mobility must be used only to fund projects identified in LEAP Transportation Document 2009-B, as developed April 24, 2009. The department shall provide annual status reports on December 15, 2009, and December 15, 2010, to the office of financial management and the transportation committees of the legislature regarding the projects receiving the grants. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule.

(7) \$10,596,768 of the regional mobility grant program account-- state appropriation must be obligated no later than December 31, 2010, and is provided solely for the following recommended contingency regional mobility grant projects identified in the 2009-11 omnibus transportation appropriations act, LEAP Transportation Document 2009-B, as developed April 24, 2009, as follows:

(a) \$4,000,000 is provided solely for the Rainier/Jackson transit priority corridor improvements;

(b) \$2,100,000 is provided solely for the state route number 522 west city limits to Northeast 180th stage 2A (91st Ave NE to west of 96th Ave NE) project; and

(c) \$4,496,768 is provided solely for the sound transit express bus expansion - Snohomish to King county project.

(8) \$300,000 of the multimodal transportation account--state appropriation is provided solely for a transportation demand management program, developed by the Whatcom council of governments, to further reduce drive-alone trips and maximize the use of sustainable transportation choices. The community-based program must focus on all trips, not only commute trips, by providing education, assistance, and incentives to four target audiences: (a) Large work sites; (b) employees of businesses in downtown areas; (c) school children; and (d) residents of Bellingham.

~~((8))~~ (9) \$130,000 of the multimodal transportation account--state appropriation is provided solely to the department to distribute to support Engrossed Substitute House Bill No. 2072 (special needs transportation).

(a) \$80,000 of the amount provided in this subsection is provided solely for implementation of the work group related to federal requirements in section 1, chapter . . . (Engrossed Substitute House Bill No. 2072), Laws of 2009.

(b) \$50,000 of the amount provided in this subsection is provided solely to support the pilot project to be developed or implemented by the local coordinating coalition comprised of a single county, described in sections 9, 10, and 11, chapter . . . (Engrossed Substitute House Bill No. 2072), Laws of 2009. The department shall assist the local coordinating coalition to seek funding sufficient to fully fund the pilot project from a variety of sources including, but not limited to, the regional transit authority serving the county, the regional transportation planning organization serving the county, and other appropriate state and federal agencies and grants. Development or implementation of the pilot project is

contingent on securing funding sufficient to fully fund the pilot project.

(c) If Engrossed Substitute House Bill No. 2072 is not enacted by June 30, 2009, the amount provided in this subsection ~~((8))~~ (9) lapses. If Engrossed Substitute House Bill No. 2072 is enacted by June 30, 2009, but a commitment from other sources to fully fund the pilot project described in (b) of this subsection has not been obtained by September 30, 2009, the amount provided in (b) of this subsection lapses.

~~((9))~~ (10) Funds provided for the commute trip reduction program may also be used for the growth and transportation efficiency center program.

~~((10))~~ (11) An affected urban growth area that has not previously implemented a commute trip reduction program is exempt from the requirements in RCW 70.94.527 if a solution to address the state highway deficiency that exceeds the person hours of delay threshold has been funded and is in progress during the 2009-11 fiscal biennium.

~~((11))~~ (12) \$2,309,000 of the multimodal transportation account-- state appropriation is provided solely for the tri-county connection service for Island, Skagit, and Whatcom transit agencies. (13) During the 2009-11 biennium, the department shall implement a pilot project that expands opportunities for private transportation providers' use of high occupancy vehicle lanes, transit-only lanes, and certain park and ride facilities. Nothing in this subsection is intended to authorize the conversion of public infrastructure to private, for-profit purposes or to otherwise create an entitlement or other claim by private users to public infrastructure. The pilot project must establish that to receive grant funding from a program administered by the public transportation office of the department during the 2009-11 biennium, the local jurisdiction in which the applicant is located must be able to show that it has in place an application process for the reasonable use by private transportation providers of high occupancy vehicle lanes, transit-only lanes, and certain park and ride facilities that are regulated by the local jurisdiction. If a private transportation provider clearly demonstrates that the local jurisdiction failed to consider an application in good faith, the department may not award the jurisdiction any grant funding. Reasonable use exists if the private transportation provider has applied for the use of: (a) High occupancy vehicle or transit-only lanes, and such use will not interfere with the safety of public transportation operations and not reduce the speed of the lanes more than five percent during peak hours; and (b) a park and ride lot (i) during peak hours at a lot that is below ninety percent capacity during peak hours or (ii) during off-peak hours only. A transit agency may require that a private transportation provider enter into an agreement for use of the park and ride lot, and may include provisions to recover actual costs for the use of the lot and its related facilities. For purposes of this subsection: A "private transportation provider" means an auto transportation company regulated under chapter 81.68 RCW; a passenger charter carrier regulated under chapter 81.70 RCW; a private nonprofit transportation provider regulated under chapter 81.66 RCW; or a private employer transportation service provider; and "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees.

Sec. 222. 2009 c 470 s 223 (uncodified) is amended to read as follows:

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

Puget Sound Ferry Operations Account--State	
Appropriation.....	(\$400,592,000)
	\$425,922,000

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

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

(1) (~~(\$53,110,560)~~) \$78,754,952 of the Puget Sound ferry operations account--state appropriation is provided solely for auto ferry vessel operating fuel in the 2009-11 fiscal biennium. This appropriation is contingent upon the enactment of sections 716 and 701 of this act. All fuel purchased by the Washington state ferries at Harbor Island truck terminal for the operation of the Washington state ferries diesel powered vessels must be a minimum of five percent biodiesel blend so long as the per gallon price of diesel containing a five percent biodiesel blend level does not exceed the per gallon price of diesel by more than five percent.

(2) To protect the waters of Puget Sound, the department shall investigate nontoxic alternatives to fuel additives and other commercial products that are used to operate, maintain, and preserve vessels.

(3) If, after the department's review of fares and pricing policies, the department proposes a fuel surcharge, the department must evaluate other cost savings and fuel price stabilization strategies that would be implemented before the imposition of a fuel surcharge. The department shall report to the legislature and transportation commission on its progress of implementing new fuel forecasting and budgeting practices, price hedging contracts for fuel purchases, and fuel conservation strategies by November 30, 2010.

(4) The department shall strive to significantly reduce the number of injuries suffered by Washington state ferries employees. By December 15, 2009, the department shall submit to the office of financial management and the transportation committees of the legislature its implementation plan to reduce such injuries.

(5) The department shall continue to provide service to Sidney, British Columbia. The department may place a Sidney terminal departure surcharge on fares for out of state residents riding the Washington state ferry route that runs between Anacortes, Washington and Sidney, British Columbia, if the cost for landing/license fee, taxes, and additional amounts charged for docking are in excess of \$280,000 CDN. The surcharge must be limited to recovering amounts above \$280,000 CDN.

(6) The department shall analyze operational solutions to enhance service on the Bremerton to Seattle ferry run. The Washington state ferries shall report its analysis to the transportation committees of the legislature by December 1, 2009.

(7) The office of financial management budget instructions require agencies to recast enacted budgets into activities. The Washington state ferries shall include a greater level of detail in its 2011-13 omnibus transportation appropriations act request, as determined jointly by the office of financial management, the Washington state ferries, and the legislative transportation committees.

(8) (~~(\$3,000,000)~~) \$4,794,000 of the Puget Sound ferry operations account--state appropriation is provided solely for commercial insurance for ferry assets. The office of financial management, after consultation with the transportation committees of the legislature, must present a business plan for the Washington state ferry system's insurance coverage to the 2010 legislature. The business plan must include a cost-benefit analysis of Washington state ferries' current commercial insurance purchased for ferry assets and a review of self-insurance for noncatastrophic events.

(9) \$1,100,000 of the Puget Sound ferry operations account--state appropriation is provided solely for a marketing program. The department shall present a marketing program proposal to the transportation committees of the legislature during the 2010 legislative session before implementing this program. Of this amount, \$10,000 is for the city of Port Townsend and \$10,000 is for the town of Coupeville for mitigation expenses related to only one vessel operating on the Port Townsend/Keystone ferry route. The moneys provided to the city of Port Townsend and town of Coupeville are not contingent upon the required marketing proposal.

(10) \$350,000 of the Puget Sound ferry operations account--state appropriation is provided solely for two extra trips per day during the summer of 2009 season, beyond the current schedule, on the Port Townsend/Keystone route.

(11) When purchasing uniforms that are required by collective bargaining agreements, the department shall contract with the lowest cost provider.

(12) The legislature finds that measuring the performance of Washington state ferries requires the measurement of quality, timeliness, and unit cost of services delivered to customers. Consequently, the department must develop a set of metrics that measure that performance and report to the transportation committees of the legislature and to the office of financial management on the development of these measurements along with recommendations to the 2010 legislature on which measurements must become a part of the next omnibus transportation appropriations act.

(13) As a priority task, the department is directed to propose a comprehensive incident and accident investigation policy and appropriate procedures, and to provide the proposal to the legislature by November 1, 2009, using existing resources and staff expertise. In addition to consulting with ferry system unions and the United States coast guard, the Washington state ferries is encouraged to solicit independent outside expertise on incident and accident investigation best practices as they may be found in other organizations with a similar concern for marine safety. It is the intent of the legislature to enact the policies into law and to publish that law and procedures as a manual for Washington state ferries' accident/incident investigations. Until that time, the Washington state ferry system must exercise particular diligence to assure that any incident or accident investigations are conducted within the spirit of the guidelines of this act. The proposed policy must contain, at a minimum:

(a) The definition of an incident and an accident and the type of investigation that is required by both types of events;

(b) The process for appointing an investigating officer or officers and a description of the authorities and responsibilities of the investigating officer or officers. The investigating officer or officers must:

(i) Have the appropriate training and experience as determined by the policy;

(ii) Not have been involved in the incident or accident so as to avoid any conflict of interest;

(iii) Have full access to all persons, records, and relevant organizations that may have information about or may have contributed to, directly or indirectly, the incident or accident under investigation, in compliance with any affected employee's or employees' respective collective bargaining agreement and state laws and rules regarding public disclosure under chapter 42.56 RCW;

(iv) Be provided with, if requested by the investigating officer or officers, appropriate outside technical expertise; and

(v) Be provided with staff and legal support by the Washington state ferries as may be appropriate to the type of investigation;

(c) The process of working with the affected employee or employees in accordance with the employee's or employees' respective collective bargaining agreement and the appropriate union officials, within protocols afforded to all public employees;

(d) The process by which the United States coast guard is kept informed of, interacts with, and reviews the investigation;

(e) The process for review, approval, and implementation of any approved recommendations within the department; and

(f) The process for keeping the public informed of the investigation and its outcomes, in compliance with any affected employee's or employees' respective collective bargaining

agreement and state laws and rules regarding public disclosure under chapter 42.56 RCW.

(14) \$7,300,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the purposes of travel time associated with Washington state ferries employees. However, if Engrossed Substitute House Bill No. 3209 (managing costs of ferry system) is enacted by June 30, 2010, containing an appropriation for purposes of travel time associated with Washington state ferries employees, the amount provided in this subsection lapses.

(15) \$50,000 of the Puget Sound ferry operations account--state appropriation is provided solely to implement a mechanism to report on-time performance statistics.

(a) The department shall conduct a study to identify process changes that would improve on-time performance on a route-by-route basis. The study must include looking into the slowing down of vessels for fuel economy purposes and touch-and-go sailings on peak runs. The department shall report its findings to the transportation committees of the senate and house of representatives by December 1, 2010.

(b) The department shall, by November 1, 2010, report to the transportation committees of the legislature statistics regarding its on-time arrival and departure status on a route-by-route and month-by-month basis, as well as an annual route-by-route and systemwide basis, weighted by the number of customers on each sailing and distinguishing peak period on-time performance. The statistics must include reasons for any delays over ten minutes from the scheduled time. The statistics must be prominently displayed on the Washington state ferries' web site. Each Washington state ferries vessel and terminal must prominently display the statistics as they relate to their specific route.

(16) The department shall investigate outsourcing the call center functions planned for the ferry reservation system and report its findings to the transportation committees of the senate and house of representatives by December 15, 2010.

(17) By July 1, 2010, the department shall provide to the governor and the transportation committees of the senate and house of representatives a listing of all benefits that Washington state ferries union employees receive that other state employees do not traditionally receive. The listing must include any costs associated with these benefits.

Sec. 223. 2009 c 470 s 224 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--OPERATING
Multimodal Transportation Account--State
Appropriation.....((~~\$34,933,000~~))
\$37,371,000

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

(1) ((~~\$29,091,000~~)) \$31,591,000 of the multimodal transportation account--state appropriation is provided solely for the Amtrak service contract and Talgo maintenance contract associated with providing and maintaining the state-supported passenger rail service. Upon completion of the rail platform project in the city of Stanwood, the department shall provide daily Amtrak Cascades service to the city.

(2) Amtrak Cascade runs may not be eliminated.

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

Sec. 224. 2009 c 470 s 225 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z-- OPERATING
Motor Vehicle Account--State Appropriation.....((~~\$8,739,000~~))
\$8,621,000

Motor Vehicle Account--Federal Appropriation.....((~~\$2,567,000~~))
\$2,545,000
TOTAL APPROPRIATION.....((~~\$11,306,000~~))
\$11,166,000

TRANSPORTATION AGENCIES--CAPITAL

Sec. 301. 2009 c 470 s 302 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD
Rural Arterial Trust Account--State
Appropriation.....((~~\$51,000,000~~))
\$73,000,000
Motor Vehicle Account--State Appropriation.....\$1,048,000
County Arterial Preservation Account--State
Appropriation.....\$31,400,000
TOTAL APPROPRIATION.....((~~\$83,448,000~~))
\$105,448,000

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

(1) \$1,048,000 of the motor vehicle account--state appropriation may be used for county ferry projects as developed pursuant to RCW 47.56.725(4).

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

(3) \$22,000,000 of the rural arterial trust account--state appropriation is provided solely for additional grants for county road projects as approved by the county road administration board.

Sec. 302. 2009 c 470 s 303 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD
Small City Pavement and Sidewalk Account--State
Appropriation.....((~~\$5,779,000~~))
\$3,927,000
Urban Arterial Trust Account--State
Appropriation.....((~~\$122,400,000~~))
\$123,900,000
Transportation Improvement Account--State
Appropriation.....((~~\$85,643,000~~))
\$81,643,000
TOTAL APPROPRIATION.....((~~\$213,822,000~~))
\$209,470,000

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

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

(2) The urban arterial trust account--state appropriation includes up to ((~~\$15,000,000~~)) \$7,143,000 in proceeds from the sale of bonds authorized in RCW 47.26.420.

Sec. 303. 2009 c 470 s 306 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--IMPROVEMENTS--PROGRAM I
Multimodal Transportation Account--State
Appropriation.....((~~\$1,000~~))
\$98,000
Transportation Partnership Account--State
Appropriation.....((~~\$1,723,834,000~~))
\$1,665,644,000

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

Motor Vehicle Account--State Appropriation.....	(\$80,735,000)
	<u>\$85,534,000</u>
Motor Vehicle Account--Federal Appropriation....	(\$410,341,000)
	<u>\$570,107,000</u>
Motor Vehicle Account--Private/Local Appropriation.....	(\$65,494,000)
	<u>\$70,714,000</u>
Special Category C Account--State Appropriation... (\$24,549,000)	
	<u>\$25,221,000</u>
Transportation 2003 Account (Nickel Account)--State Appropriation.....	(\$703,708,000)
	<u>\$713,205,000</u>
Freight Mobility Multimodal Account--State Appropriation.....	(\$4,422,000)
	<u>\$4,574,000</u>
Tacoma Narrows Toll Bridge Account--State Appropriation.....	(\$788,000)
	<u>\$789,000</u>
State Route Number 520 Corridor Account--State Appropriation.....	(\$106,000,000)
	<u>\$231,763,000</u>
<u>State Route Number 520 Civil Penalties Account--State</u> Appropriation.....	<u>\$1,190,000</u>
<u>TOTAL APPROPRIATION.....</u>	<u>(\$3,119,872,000)</u>
	<u>\$3,368,839,000</u>

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

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ~~((2009-4))~~ 2010-1 as developed ~~((April 24, 2009))~~ March 8, 2010, Program - Highway Improvement Program (I). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(2) ~~((As a result of economic changes since the initial development of the improvement program budget for the 2009-11 fiscal biennium, the department has received bids on construction contracts over the last several months that are favorable with respect to current estimates of project costs. National economic forecasts indicate that inflationary pressures are likely to remain lower than previously expected for the next several years. As a result, the nominal project cost totals shown in LEAP Transportation Document 2009-1 in aggregate for the 2009-11 fiscal biennium and the 2011-13 fiscal biennium are expected to exceed the likely amount necessary to deliver the projects listed within those biennia by \$63,500,000 in the 2009-11 fiscal biennium and \$52,700,000 in the 2011-13 fiscal biennium. The appropriations provided in this section for the projects in those biennia are therefore \$63,500,000 less in the 2009-11 fiscal biennium and \$52,700,000 less in the 2011-13 fiscal biennium than the aggregate total of project costs listed. It is the intent of the legislature that the department shall deliver the projects listed in LEAP Transportation Document 2009-1 within the time, scope, and budgets identified in that document, provided that the prices of commodities used in transportation projects do not differ significantly from those assumed for the 2009-11 and 2011-13 fiscal biennia in the March 2009 forecast of the economic and revenue forecast council.~~

~~—(3)~~ \$162,900,000 \$163,385,000 of the transportation partnership account--state appropriation and ~~(\$106,000,000)~~ \$231,763,000 of the state route number 520 corridor account--state appropriation are provided solely for the state route number 520

bridge replacement and HOV project. The department shall submit an application for the eastside transit and HOV project to the supplemental discretionary grant program for regionally significant projects as provided in the American Recovery and Reinvestment Act of 2009. ~~((Eastside state route number 520 improvements shall be designed and constructed to accommodate a future full interchange at 124th Avenue Northeast. Concurrent with the eastside transit and HOV project, the department shall conduct engineering design of a full interchange at 124th Avenue Northeast. The amount provided in this subsection from the state route number 520 corridor account state appropriation is contingent on the enactment of (a) Engrossed Substitute House Bill No. 2211 and (b) either Engrossed Substitute House Bill No. 2326 or other legislation authorizing bonds for the state route number 520 corridor projects. If the conditions of this subsection are not satisfied, the state route number 520 corridor account state appropriation shall lapse.~~

~~—(4))~~ (3) As required under section 305(6), chapter 518, Laws of 2007, the department shall report by January 2010 to the transportation committees of the legislature on the findings of the King county noise reduction solutions pilot project.

~~—((5))~~ (4) Funding allocated for mitigation costs is provided solely for the purpose of project impact mitigation, and shall not be used to develop or otherwise participate in the environmental assessment process.

~~—((6))~~ (5) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P including, but not limited to, the SR 518, SR 520, Columbia river crossing, and Alaskan Way viaduct projects.

~~—((7))~~ (6) The department shall, on a quarterly basis beginning July 1, 2009, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account and transportation 2003 account (nickel account) projects relating to bridge rail, guard rail, fish passage barrier removal, and roadside safety projects should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. ~~((The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements must include, but not be limited to, project scope, schedule, and costs. For))~~ Report formatting and elements must be consistent with the October 2009 quarterly project report. On a representative sample of new construction contracts valued at fifteen million dollars or more, the department must also use an earned value method of project monitoring. ((The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

~~—(8))~~ (7) The transportation 2003 account (nickel account)--state appropriation includes up to ~~(\$628,000,000)~~ \$653,630,000 in proceeds from the sale of bonds authorized by RCW 47.10.861.

~~—((9))~~ (8) The transportation partnership account--state appropriation includes up to ~~(\$1,360,528,000)~~ \$1,347,939,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

~~—((10))~~ (9) The special category C account--state appropriation includes up to ~~(\$22,127,000)~~ \$25,221,000 in proceeds from the sale of bonds authorized in RCW 47.10.812.

~~—((11))~~ (10) The motor vehicle account--state appropriation includes up to ~~(\$31,500,000)~~ \$43,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

(11) The state route number 520 corridor account--state appropriation includes up to \$231,763,000 in proceeds from the sale of bonds authorized in RCW 47.10.879.

(12) The department must prepare a tolling study for the Columbia river crossing project. While conducting the study, the department must coordinate with the Oregon department of transportation to perform the following activities:

(a) Evaluate the potential diversion of traffic from Interstate 5 to other parts of the transportation system when tolls are implemented on Interstate 5 in the vicinity of the Columbia river;

(b) Evaluate the most advanced tolling technology to maintain travel time speed and reliability for users of the Interstate 5 bridge;

(c) Evaluate available active traffic management technology to determine the most effective options for technology that could maintain travel time speed and reliability on the Interstate 5 bridge;

(d) Confer with the project sponsor's council, as well as local and regional governing bodies adjacent to the Interstate 5 Columbia river crossing corridor and the Interstate 205 corridor regarding the implementation of tolls, the impacts that the implementation of tolls might have on the operation of the corridors, the diversion of traffic to local streets, and potential mitigation measures;

(e) Regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's potential toll setting on the facility;

(f) Research and evaluate options for a potential toll-setting framework between the Oregon and Washington transportation commissions;

(g) Conduct public work sessions and open houses to provide information to citizens, including users of the bridge and business and freight interests, regarding implementation of tolls on the Interstate 5 and to solicit citizen views on the following items:

(i) Funding a portion of the Columbia river crossing project with tolls;

(ii) Implementing variable tolling as a way to reduce congestion on the facility; and

(iii) Tolling Interstate 205 separately as a management tool for the broader state and regional transportation system; and

(h) Provide a report to the governor and the legislature by January 2010.

(13)(a) By January 2010, the department must prepare a traffic and revenue study for Interstate 405 in King county and Snohomish county that includes funding for improvements and high occupancy toll lanes, as defined in RCW 47.56.401, for traffic management. The department must develop a plan to operate up to two high occupancy toll lanes in each direction on Interstate 405.

(b) For the facility listed in (a) of this subsection, the department must:

(i) Confer with the mayors and city councils of jurisdictions in the vicinity of the project regarding the implementation of high occupancy toll lanes and the impacts that the implementation of these high occupancy toll lanes might have on the operation of the corridor and adjacent local streets;

(ii) Conduct public work sessions and open houses to provide information to citizens regarding implementation of high occupancy toll lanes and to solicit citizen views;

(iii) Regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's toll setting on the facility; and

(iv) Provide a report to the governor and the legislature by January 2010.

(14)(~~(\$9,199,985)~~) \$6,488,000 of the motor vehicle account--state appropriation ~~(~~**~~)~~ and \$5,000 of the motor vehicle account--federal appropriation are provided solely for project 100224I, ~~(as identified in the LEAP transportation document in subsection (1) of this section.)~~ US 2 high priority safety project. Expenditure of these funds is for safety projects on state route

number 2 between Monroe and Gold Bar, which may include median rumble strips, traffic cameras, and electronic message signs.

(15) Expenditures for the state route number 99 Alaskan Way viaduct replacement project must be made in conformance with Engrossed Substitute Senate Bill No. 5768.

(16) The department shall conduct a public outreach process to identify and respond to community concerns regarding the Belfair bypass. The process must include representatives from Mason county, the legislature, area businesses, and community members. The department shall use this process to consider and develop design alternatives that alter the project's scope so that the community's needs are met within the project budget. The department shall provide a report on the process and outcomes to the legislature by June 30, 2010.

(17) The legislature is committed to the timely completion of R8A which supports the construction of sound transit's east link. Following the completion of the independent analysis of the methodologies to value the reversible lanes on Interstate 90 which may be used for high capacity transit as directed in section 204 of this act, the department shall complete the process of negotiations with sound transit. Such agreement shall be completed no later than December 1, 2009.

(18) \$250,000 of the motor vehicle account--state appropriation is provided solely for the design and construction of a right turn lane to improve visibility and traffic flow on state route number 195 and Cheney-Spokane Road (project L1000001).

(19) ~~((\$846,700))~~ \$730,000 of the motor vehicle account--federal appropriation and ~~((\$17,280))~~ \$16,000 of the motor vehicle account-- state appropriation are provided solely for the Westview school noise wall (project WESTV).

(20) ~~((\$1,360))~~ \$2,000 of the motor vehicle account--state appropriation and ~~((\$35,786))~~ \$131,000 of the motor vehicle account-- federal appropriation are provided solely for interchange design and planning work on US 12 at A Street and Tank Farm Road (project PASCO).

(21) ~~((\$20,011,125))~~ \$21,566,000 of the transportation partnership account--state appropriation, ~~((\$2,550))~~ \$26,000 of the motor vehicle account--state appropriation, ~~((\$30,003,473))~~ \$30,000,000 of the motor vehicle account--private/local appropriation, and ~~((\$1,482,066))~~ \$4,334,000 of the motor vehicle account--federal appropriation are provided solely for project 400506A, the I-5/Columbia river crossing/Vancouver project. The funding described in this subsection includes a ~~((\$30,003,473))~~ \$30,000,000 contribution from the state of Oregon.

(22) It is important that the public and policymakers have accurate and timely access to information related to the Alaskan Way viaduct replacement project as it proceeds to, and during, the construction of all aspects of the project including, but not limited to, information regarding costs, schedules, contracts, project status, and neighborhood impacts. Therefore, it is the intent of the legislature that the state, city, and county departments of transportation establish a single source of accountability for integration, coordination, tracking, and information of all requisite components of the replacement project, which must include, at a minimum:

(a) A master schedule of all subprojects included in the full replacement project or program; and

(b) A single point of contact for the public, media, stakeholders, and other interested parties.

(23) ~~(The state route number 520 corridor account state appropriation includes up to \$106,000,000 in proceeds from the sale of bonds authorized in Engrossed Substitute House Bill No. 2326 or in legislation authorizing bonds for the state route number 520 corridor projects. If Engrossed Substitute House Bill No. 2326, or legislation authorizing bonds for the state route number 520 corridor projects, is not enacted by June 30, 2009, the amount provided in~~

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

~~this subsection shall lapse.~~

~~—(24))~~ The department shall evaluate a potential deep bore culvert for the state route number 305/Bjorgen creek fish barrier project identified as project 330514A in LEAP Transportation Document ALL PROJECTS 2009-2, as developed April 24, 2009. The department shall evaluate whether a deep bore culvert will be a less costly alternative than a traditional culvert since a traditional culvert would require extensive road detours during construction.

~~((25))~~ (24) Project number 330215A in the LEAP transportation document described in subsection (1) of this section is expanded to include safety and congestion improvements from the Key Peninsula Highway to the vicinity of Purdy. The department shall consult with the Washington traffic safety commission to ensure that this project includes improvements at intersections and along the roadway to reduce the frequency and severity of collisions related to roadway conditions and traffic congestion.

~~((26) \$10,600,000)~~ (25) \$8,890,000 of the transportation partnership account--state appropriation is provided solely for project 109040Q, the Interstate 90 Two Way Transit and HOV Improvements--Stage 2 and 3 project, as indicated in the LEAP transportation document referenced in subsection (1) of this section. ~~((Funds shall be used solely for preliminary engineering on stages 2 and 3 of this project.~~

~~—(27))~~ (26) The department shall continue to work with the local partners in developing transportation solutions necessary for the economic growth in the Red Mountain American Viticulture Area of Benton county.

~~((28))~~ (27) For highway construction projects where the department considers agricultural lands of long-term commercial significance, as defined in RCW 36.70A.030, in reviewing and selecting sites to meet environmental mitigation requirements under the national environmental policy act (42 U.S.C. Sec. 4321 et seq.) and the state environmental policy act (chapter 43.21C RCW), the department shall, to the greatest extent possible, consider using public land first. If public lands are not available that meet the required environmental mitigation needs, the department may use other sites while making every effort to avoid any net loss of agricultural lands that have a designation of long-term commercial significance.

~~((29))~~ (28) Within the motor vehicle account--state appropriation and motor vehicle account--federal appropriation, the department may transfer funds between programs I and P, except for funds that are otherwise restricted in this act.

~~((30))~~ (29) Within the amounts provided in this section, \$200,000 of the transportation partnership account--state appropriation is provided solely for the department to prepare a comprehensive tolling study of the state route number 167 corridor to determine the feasibility of administering tolls within the corridor, identified as project number 316718A in the LEAP transportation document described in subsection (1) of this section. The department shall report to the joint transportation committee by September 30, 2010. The department shall regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's potential toll setting on the facility. The elements of the study must include, at a minimum:

- (a) The potential for value pricing to generate revenues for needed transportation facilities within the corridor;
- (b) Maximizing the efficient operation of the corridor; and
- (c) Economic considerations for future system investments.

~~((31))~~ (30) Within the amounts provided in this section, \$200,000 of the transportation partnership account--state appropriation is provided solely for the department to prepare a comprehensive tolling study of the state route number 509 corridor to determine the feasibility of administering tolls within the corridor,

identified as project number 850901F in the LEAP transportation document described in subsection (1) of this section. The department shall report to the joint transportation committee by September 30, 2010. The department shall regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's potential toll setting on the facility. The elements of the study must include, at a minimum:

- (a) The potential for value pricing to generate revenues for needed transportation facilities within the corridor;
- (b) Maximizing the efficient operation of the corridor; and
- (c) Economic considerations for future system investments.

~~((32))~~ (31) Within the amounts provided in this section, \$28,000,000 of the transportation partnership account--state appropriation is for project 600010A, as identified in the LEAP transportation document in subsection (1) of this section: NSC-North Spokane corridor design and right-of-way - new alignment. Expenditure of these funds is for preliminary engineering and right-of-way purchasing to prepare for four lanes to be built from where existing construction ends at Francis Avenue for three miles to the Spokane river. Additionally, any savings realized on project 600001A, as identified in the LEAP transportation document in subsection (1) of this section: US 395/NSC-Francis Avenue to Farwell Road - New Alignment, must be applied to project 600010A.

~~((33))~~ (32) \$400,000 of the motor vehicle account--state appropriation is provided solely for the department to conduct a state route number 2 route development plan (project L2000016) that will identify essential improvements needed between the port of Everett/Naval station and approaching the state route number 9 interchange near the city of Snohomish.

~~((34))~~ (33) If the SR 26 - Intersection and Illumination Improvements are not completed by June 30, 2009, the department shall ensure that the improvements are completed as soon as practicable after June 30, 2009, and shall submit monthly progress reports on the improvements beginning July 1, 2009.

~~((35))~~ (34) \$200,000 of the transportation partnership account--state appropriation, identified on project number 400506A in the LEAP transportation document described in subsection (1) of this section, is provided solely for the department to work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on the Columbia river crossing project. This project must be conducted with active archaeological management and result in one report that spans the single cultural area in Oregon and Washington. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

~~((36))~~ (35) The department shall work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on all mega-highway projects and large ferry terminal projects. These projects must be conducted with active archaeological management. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

~~((37))~~ (36) Within the amounts provided in this section, \$1,500,000 of the motor vehicle account--state appropriation is provided solely for necessary work along the south side of SR 532, identified as project number 053255C in the LEAP transportation document described in subsection (1) of this section.

~~((38))~~ (37) \$10,000,000 of the transportation partnership account--state appropriation is provided solely for the Spokane street viaduct portion of project 809936Z, SR 99/Alaskan Way

Viaduct – Replacement project as indicated in the LEAP transportation document referenced in subsection (1) of this section.

~~((39))~~ (38) The department shall conduct a public outreach process to identify and respond to community concerns regarding the portion of John's Creek Road that connects state route number 3 and state route number 101. The process must include representatives from Mason county, the legislature, area businesses, and community members. The department shall use this process to consider, develop, and design a project scope so that the community's needs are met for the lowest cost. The department shall provide a report on the process and outcomes to the legislature by June 30, 2010.

~~((40))~~ (39) The department shall apply for the competitive portion of federal transit administration funds for eligible transit-related costs of the state route number 520 bridge replacement and HOV project and the Columbia river crossing project. The federal funds described in this subsection must not include those federal transit administration funds distributed by formula. The department shall provide a report regarding this effort to the legislature by January 1, 2010.

(40) \$5,500,000 of the motor vehicle account--federal appropriation is provided solely for the Alaskan Way Viaduct - Automatic Shutdown project, identified as project L1000034.

(41) \$2,244,000 of the motor vehicle account--federal appropriation and \$122,000 of the motor vehicle account--state appropriation are provided solely for the US 12/Nine Mile Hill to Woodward Canyon Vic - Build New Highway project, identified as project 501210T.

(42) \$790,000 of the motor vehicle account--federal appropriation is provided solely for the Express Lanes System Concept Study project, identified as project 800020A. As part of this project, the department shall prepare a comprehensive tolling study of the Interstate 5 express lanes to determine the feasibility of administering tolls within the corridor. The department shall regularly report to the Washington transportation commission regarding the progress of the study. The elements of the study must include, at a minimum:

(i) The potential for value pricing to generate revenues for needed transportation facilities;

(ii) Maximizing the efficient operation of the corridor;

(iii) Economic considerations for future system investments; and

(iv) An analysis of the impacts to the regional transportation system.

(b) The department shall submit a final report on the study to the joint transportation committee by June 30, 2011.

(43) Any redistributed federal funds received by the department must, to the greatest extent possible, be first applied to offset planned expenditures of state funds, and second to offset planned expenditures of federal funds, on projects as identified in the LEAP transportation documents described in this act. If the redistributed federal funds cannot be used in this manner, the department must consult with the joint transportation committee prior to obligating any redistributed federal funds.

(44) \$226,000 of the motor vehicle account--federal appropriation and \$9,000 of the motor vehicle account--state appropriation are provided solely for the SR 16/Rosedale Street NW Vicinity - Frontage Road project (301639C). These funds must not be expended before an agreement stating that the city of Gig Harbor will take ownership of the road has been signed. The frontage road must be built for driving speeds of no more than thirty-five miles per hour.

(45) The department shall work with the Washington state transportation commission, the Oregon state department of transportation, and the Oregon state transportation commission to analyze and review potential options for a bistate, toll setting

framework. As part of the analysis, the department shall undertake the following actions: Review statutory provisions and the governance structures of toll facilities in the United States that are located within two or more states; review relevant federal law regarding transportation facilities that are located within two or more states; consult with the state treasurers in Washington and Oregon regarding the appropriate structure for the issuance of debt for toll facilities that are located within two states; report findings and recommendations to the Columbia river project sponsor's council by October 1, 2010; and provide a final report to the governor and the legislature by June 30, 2011.

(46) \$750,000 of the motor vehicle account--state appropriation is provided solely for improvements from Allan Road to state route number 12 (501207Z).

(47) \$500,000 of the motor vehicle account--state appropriation is provided solely for a traffic signal at the intersection of state route number 7 and state route number 702 (300738A).

(48) \$750,000 of the motor vehicle account--state appropriation is provided solely for environmental work on the Belfair Bypass (project 300344C).

(49) The legislature finds that state route number 522 corridor provides an important link between Interstates 5 and 405 and will be impacted by diversion from tolling elsewhere in the region. State route number 522 must be reviewed as part of the scoping work conducted under section 220(4) of this act. As such, the legislature intends to provide additional funding for the corridor as a priority in the next revenue package. The state will work with the affected cities and the federal government to secure the necessary resources to address the needs of this critical corridor.

(50) \$500,000 of the motor vehicle account--state appropriation is provided solely for the US 12/SR 122/Mossyrock - Intersection project (401212R) for safety improvements.

(51) \$200,000 of the motor vehicle account--federal appropriation is provided solely for project US 97A/North of Wenatchee - Wildlife Fence (209790B), and an offsetting reduction is anticipated in the 2011-13 biennium.

(52) If a planned roundabout in the vicinity of state route number 526 and 84th Street SW would divert commercial traffic onto neighborhood streets, the department may not proceed with improvements at state route number 526 and 84th Street SW until the traffic impacts in the vicinity of state route number 526 and 40th Avenue West are addressed.

(53) The department shall conduct a collision analysis corridor study on state route number 167 from milepost 0 to milepost 5 and report to the transportation committees of the legislature on the analysis results by December 1, 2010.

(54) \$2,600,000 of the motor vehicle account--federal appropriation is provided solely for the ITS Advanced Traveler Information System project in Whatcom county (100589B).

(55) \$900,000 of the motor vehicle account--federal appropriation is provided solely for the US 97/Cameron Lake Road intersection improvements project in Okanogan county (209700W).

(56) \$400,000 of the motor vehicle account--federal appropriation and \$100,000 of the motor vehicle account--state appropriation are provided solely for the SR 9/SR 204 Intersection Improvement project (L2000040).

(57) The legislature finds that the state route number 12 widening from state route number 124 to Walla Walla is an important east-west corridor in the southeast region of the state. Widening the highway to four lanes will increase safety and improve freight mobility. Therefore, the legislature intends for the department to use up to two million dollars in future redistributed federal obligation authority that may be received by the department for right-of-way purchase for the US 12/Nine Mile Hill to Woodward Canyon Vicinity - Phase 7-A project (501210T).

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

Sec. 304. 2009 c 470 s 307 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--PRESERVATION--PROGRAM P

Transportation Partnership Account--State

Appropriation.....	(\$103,077,000)	
		<u>\$75,305,000</u>
Motor Vehicle Account--State Appropriation.....	(\$88,142,000)	
		<u>\$96,884,000</u>
Motor Vehicle Account--Federal Appropriation....	(\$524,954,000)	
		<u>\$556,705,000</u>
Motor Vehicle Account--Private/Local Appropriation..	(\$6,417,000)	
		<u>\$18,768,000</u>
Transportation 2003 Account (Nickel Account)--State Appropriation.....	(\$7,237,000)	
		<u>\$6,328,000</u>
Puyallup Tribal Settlement Account--State Appropriation.....	(\$6,500,000)	
		<u>\$6,636,000</u>
TOTAL APPROPRIATION.....	(\$736,327,000)	<u>\$760,626,000</u>

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

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ((2009-4) 2010-1 as developed ((April 24, 2009)) March 8, 2010, Program - Highway Preservation Program (P). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(2) (((\$544,639)) \$542,000 of the motor vehicle account--federal appropriation and (((\$455,361)) \$453,000 of the motor vehicle account-- state appropriation are provided solely for project 602110F, ((as identified in the LEAP transportation document in subsection (1) of this section)) SR 21/Keller ferry boat - Preservation. Funds are provided solely for preservation work on the existing vessel, the Martha S.

(3) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P.

(4) (((\$6,500,000)) \$6,636,000 of the Puyallup tribal settlement account--state appropriation is provided solely for ((mitigation)) costs associated with the Murray Morgan/11th Street bridge ((demolition. The department may negotiate with the city of Tacoma for the purpose of transferring ownership of the Murray Morgan/11th Street bridge to the city. If the city agrees to accept ownership of the bridge, the department)) project. The city of Tacoma may use the Puyallup tribal settlement account appropriation and other appropriated funds for bridge rehabilitation, bridge replacement, bridge demolition, and related mitigation. The department's participation, including prior expenditures, may not exceed (((\$39,953,000)) \$40,270,000. ((Funds may not be expended unless)) The city of Tacoma ((agrees to take)) has taken ownership of the bridge in its entirety, and ((provides that)) the payment of these funds extinguishes any real or implied agreements regarding future bridge expenditures.

(5) The department and the city of Tacoma must present to the legislature an agreement on the timing of the transfer of ownership of the Murray Morgan/11th Street bridge and any additional

necessary state funding required to achieve the transfer and rehabilitation of the bridge by January 1, 2010.

(6) The department shall, on a quarterly basis beginning July 1, 2009, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account projects relating to seismic bridges should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements must include, but not be limited to, project scope, schedule, and costs. For new construction contracts valued at fifteen million dollars or more, the department must also use an earned value method of project monitoring. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(7) The department of transportation shall continue to implement the lowest life cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

(8)(a) The department shall conduct an analysis of state highway pavement replacement needs for the next ten years. The report must include:

- (i) The current backlog of asphalt and concrete pavement preservation projects;
- (ii) The level of investment needed to reduce or eliminate the backlog and resume the lowest life-cycle cost;
- (iii) Strategies for addressing the recent rapid escalation of asphalt prices, including alternatives to using hot mix asphalt;
- (iv) Criteria for determining which type of pavement will be used for specific projects, including annualized cost per mile, traffic volume per lane mile, and heavy truck traffic volume per lane mile; and

(v) The use of recycled asphalt and concrete in state highway construction and the effect on highway pavement replacement needs.

(b) Additionally, the department shall work with the department of ecology, the county road administration board, and the transportation improvement board to explore and explain the potential use of permeable asphalt and concrete pavement in state highway construction as an alternative method of storm water mitigation and the potential effects on highway pavement replacement needs.

(c) The department shall submit the report to the office of financial management and the transportation committees of the legislature by ((December)) September 1, 2010, in order to inform the development of the 2011-13 omnibus transportation appropriations act.

(9) (((\$1,722)) \$299,000 of the motor vehicle account--state appropriation, (((\$9,608,115)) \$23,425,000 of the motor vehicle account--federal appropriation, and (((\$272,141)) \$373,000 of the transportation partnership account--state appropriation are provided solely for the SR 104/Hood Canal bridge - replace east half project, identified as project 310407B in the LEAP transportation document described in subsection (1) of this section.

(10) Within the motor vehicle account--state appropriation and motor vehicle account--federal appropriation, the department may

transfer funds between programs I and P, except for funds that are otherwise restricted in this act.

(11) Within the amounts provided in this section, \$1,510,000 of the motor vehicle account--state appropriation is provided solely to complete the rehabilitation of the SR 532/84th Avenue NW bridge deck.

(12) ~~(\$1,500,000)~~ \$1,440,000 of the motor vehicle account--federal appropriation ~~(is)~~ and \$60,000 of the motor vehicle account--state appropriation are provided solely for the environmental impact statement and preliminary planning for the replacement of the state route number 9 Snohomish river bridge (project L2000018).

(13) \$12,503,000 of the motor vehicle account--federal appropriation and \$497,000 of the motor vehicle account--state appropriation are provided solely for the SR 410/Nile Valley Landslide - Establish Interim Detour project (541002R).

(14) \$4,239,000 of the motor vehicle account--federal appropriation and \$662,000 of the motor vehicle account--state appropriation are provided solely for the SR 410/Nile Valley Landslide - Reconstruct Route project (541002T).

(15) Any redistributed federal funds received by the department must, to the greatest extent possible, be first applied to offset planned expenditures of state funds, and second, to offset planned expenditures of federal funds, on projects as identified in the LEAP transportation documents described in this act. If the redistributed federal funds cannot be used in this manner, the department must consult with the joint transportation committee prior to obligating any redistributed federal funds.

(16) The legislature anticipates a report in September 2010 that will outline the department's recommendation for developing a Keller Ferry replacement at the lowest cost. The legislature supports the request to the federal government for federal aid for a replacement vessel and intends to provide reasonable matching amounts as necessary.

(17) \$2,100,000 of the motor vehicle account--federal appropriation is provided solely for the SR 21/Kettle River to Malo paving project in Ferry county (602117A).

Sec. 305. 2009 c 470 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q-- CAPITAL

Motor Vehicle Account--State Appropriation.....	(\$6,394,000)
	<u>\$8,158,000</u>
Motor Vehicle Account--Federal Appropriation.....	(\$9,262,000)
	<u>\$18,037,000</u>
Motor Vehicle Account--Private/Local Appropriation.....	<u>\$173,000</u>
TOTAL APPROPRIATION.....	(\$15,656,000)
	<u>\$26,368,000</u>

Sec. 306. 2009 c 470 s 309 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES CONSTRUCTION--PROGRAM W

Puget Sound Capital Construction Account--State	
Appropriation.....	(\$118,752,000)
	<u>126,824,000</u>
Puget Sound Capital Construction Account--Federal	
Appropriation.....	(\$38,306,000)
	<u>\$60,364,000</u>
Puget Sound Capital Construction Account--Local	
Appropriation.....	(\$8,492,000)
	<u>\$200,000</u>
Transportation 2003 Account (Nickel Account)--State	
Appropriation.....	<u>\$51,734,000</u>
Transportation Partnership Account--State	

Appropriation.....	(\$67,234,000)
	<u>\$66,879,000</u>
Multimodal Transportation Account--State	
Appropriation.....	(\$170,000)
	<u>\$149,000</u>
TOTAL APPROPRIATION.....	(\$284,688,000)
	<u>\$306,150,000</u>

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

(1) ~~(\$118,752,000)~~ \$126,824,000 of the Puget Sound capital construction account--state appropriation, ~~(\$38,306,000)~~ \$60,364,000 of the Puget Sound capital construction account--federal appropriation, ~~(\$8,492,000)~~ \$200,000 of the Puget Sound capital construction account--local appropriation, ~~(\$67,234,000)~~ \$66,879,000 of the transportation partnership account--state appropriation, \$51,734,000 of the transportation 2003 account (nickel account)--state appropriation, and ~~(\$170,000)~~ \$149,000 of the multimodal transportation account--state appropriation are provided solely for ferry capital projects, project support, and administration as listed in LEAP Transportation Document ALL PROJECTS ~~(2009-2)~~ 2010-2 as developed ~~(April 24, 2009)~~ March 8, 2010, Program - Ferries Construction Program (W). Of the total appropriation, a maximum of \$10,627,000 may be used for administrative support, a maximum of \$8,184,000 may be used for terminal project support, and a maximum of \$4,497,000 may be used for vessel project support. Of the total appropriation, \$5,851,000 is provided solely for a reservation system and associated communications projects.

(2) \$51,734,000 of the transportation 2003 account (nickel account)--state appropriation ~~(and)~~, \$63,100,000 of the transportation partnership account--state appropriation, and \$10,164,000 of the Puget Sound capital construction account--state appropriation are provided solely for the acquisition of three new Island Home class ferry vessels subject to the conditions of RCW 47.56.780. The department shall pursue a contract for the second and third Island Home class ferry vessels with an option to purchase a fourth Island Home class ferry vessel. However, if sufficient resources are available to build one 144-auto vessel prior to exercising the option to build the fourth Island Home class ferry vessel, procurement of the fourth Island Home class ferry vessel will be postponed and the department shall pursue procurement of a 144-auto vessel.

(a) The first two Island Home class ferry vessels must be placed on the Port Townsend-Keystone route.

(b) The department may add additional passenger capacity to one of the Island Home class ferry vessels to make it more flexible within the system in the future, if doing so does not require additional staffing on the vessel.

(c) Cost savings from the following initiatives will be included in the funding of these vessels: The department's review and update of the vessel life-cycle cost model as required under this section; and the implementation of technology efficiencies as required under section 602 of this act.

(3) ~~(\$2,450,000 of the Puget Sound capital construction account--state appropriation is provided solely for contingencies associated with closing out the existing contract for the technical design of the 144 auto vessel and the storage and maintenance of vessel owner furnished equipment already procured. The department shall use as much of the already procured equipment as is practicable on the Island Home class ferry vessel if it is likely to be obsolete before it is used in procured 144 auto vessels.)~~ (a) \$8,450,000 of the Puget Sound capital construction account--state appropriation and \$2,450,000 of the transportation partnership account--state appropriation are provided solely for the following projects related to the design of a 144- vehicle vessel class: (i) \$1,380,000 is provided solely for completion of the contract for

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

owner-furnished equipment; (ii) \$8,320,000 is provided solely for completion of the technical design, detail design, and production drawings, all of which must plan for an aluminum superstructure; (iii) \$480,000 is provided solely for the storage of owner-furnished equipment; and (iv) a maximum of \$720,000 is for construction engineering. In completing the contract for owner-furnished equipment, the department shall use as much of the already procured equipment as is practicable on the Island Home class ferry vessels if it is likely to be obsolete before it is used in procured 144-vehicle vessels.

(b) The department shall conduct a cost-benefit study on alternative furnishings and fittings for the 144-vehicle vessel class. The study must review the proposed interior furnishings and fittings for the long-term maintenance and out-of-service vessel costs and, if appropriate, propose alternative interior furnishings and fittings that will decrease long-term maintenance and out-of-service vessel costs. The study must include a projection of out-of-service time and a life-cycle cost analysis of planned out-of-service time, including the impact on fleet size. The department must submit the study to the joint transportation committee by August 1, 2010.

(c) The department shall identify costs for any additional detail design and production drawings costs related to incorporating the aluminum superstructure and any changes in the proposed furnishings and fittings.

(4) \$6,300,000 of the Puget Sound capital construction account-- state appropriation is provided solely for emergency capital costs.

~~(5) ((The Anacortes terminal may be replaced if additional federal funds are sought and received by the department. If federal funds received are not sufficient to replace the terminal, only usable, discrete phases of the project, up to the amount of federal funds received, may be constructed with the funds.))~~ \$3,000,000 of the Puget Sound capital construction account--federal appropriation is provided solely for completing the Anacortes terminal design up to the maximum allowable construction cost phase. Beyond preparing environmental work, these funds may be spent only after the following conditions have been met: (a) A value engineering process is conducted on the existing design and the concept of a terminal building smaller than preferred alternative; (b) the office of financial management participates in the value engineering process; (c) the office of financial management concurs with the recommendations of the value engineering process; and (d) the office of financial management gives its approval to proceed with the design work.

(6) \$3,965,000 of the Puget Sound capital construction account-- state appropriation is provided solely for the following vessel projects: Waste heat recovery pilot project for the Issaquah; jumbo Mark 1 class steering gear ventilation pilot project; and ((a new propulsion system for the MV Yakima)) improvements to the Yakima and Kaleetan propulsion controls to allow for two engine operation. Before beginning these projects, the Washington state ferries must ensure the vessels' out-of-service time does not negatively impact service to the system.

(7) The department shall pursue purchasing a foreign-flagged vessel for service on the Anacortes, Washington to Sidney, British Columbia ferry route.

(8) The department shall provide to the office of financial management and the legislature quarterly reports providing the status on each project listed in this section and in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2009-11 fiscal biennium. Elements must include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS). The quarterly report

regarding the status of projects identified on the list referenced in subsection (1) of this section must be developed according to an earned value method of project monitoring.

(9) The department shall review and adjust its capital program staffing levels to ensure staffing is at the most efficient level necessary to implement the capital program in the omnibus transportation appropriations act. The Washington state ferries shall report this review and adjustment to the office of financial management and the house and senate transportation committees of the legislature by July 2009.

~~((10) ((~~\$3,763,000 of the total appropriation is provided solely for the Washington state ferries to develop a reservation system. The department shall complete a predesign study and present the study to the joint transportation committee by November 1, 2009. This analysis must include an evaluation of the compatibility of the Washington state ferries' electronic fare system, proposed reservation system, and the implementation of smart card. The department may not implement a statewide reservation system until the department is authorized to do so in the 2010 supplemental omnibus transportation appropriations act.~~~~

~~---~~ ~~((11))~~ \$1,200,000 of the total appropriation is provided solely for improving the toll booth configuration at the Port Townsend and Keystone ferry terminals.

~~(((12) \$3,249,915)))~~ (11) \$2,636,000 of the total appropriation is provided solely for continued permitting ((and archaeological work in order to determine the feasibility of relocating)) work on the Mukilteo ferry terminal. ((In order to ensure that the cultural resources investigation is properly conducted in a coordinated fashion, the department shall work with the department of archaeology and historic preservation and shall conduct work with active archaeological management.)) The department shall seek additional federal funding for this project.

~~(((13)))~~ (12) The department shall develop a proposed ferry vessel maintenance, preservation, and improvement program and present it to the transportation committees of the legislature by July 1, 2010. The proposal must:

(a) Improve the basis for budgeting vessel maintenance, preservation, and improvement costs and for projecting those costs into a sixteen-year financial plan;

(b) Limit the amount of planned out-of-service time to the greatest extent possible, including options associated with department staff as well as commercial shipyards. At a minimum, the department shall consider the following:

(i) The costs compared to benefits of Eagle Harbor repair and maintenance facility operations options to include staffing costs and benefits in terms of reduced out-of-service time;

(ii) The maintenance requirements for on-vessel staff, including the benefits of a systemwide standard;

(iii) The costs compared to benefits of staff performing preservation or maintenance work, or both, while the vessel is underway, tied up between sailings, or not deployed;

(iv) A review of the department's vessel maintenance, preservation, and improvement program contracting process and contractual requirements;

(v) The costs compared to benefits of allowing for increased costs associated with expedited delivery;

(vi) A method for comparing the anticipated out-of-service time of proposed projects and other projects planned during the same construction period;

(vii) Coordination with required United States coast guard dry dockings;

(viii) A method for comparing how proposed projects relate to the service requirements of the route on which the vessel normally operates; and

(ix) A method for evaluating the ongoing maintenance and preservation costs associated with proposed improvement projects; and

(c) Be based on the service plan in the capital plan, recognizing that vessel preservation and improvement needs may vary by route.

~~((14))~~ (13) \$247,000 of the Puget Sound capital construction account--state appropriation is provided solely for the Washington state ferries to review and update its vessel life-cycle cost model and report the results to the house of representatives and senate transportation committees of the legislature by ~~((December 1, 2009))~~ March 15, 2010. This review will evaluate the impact of the planned out-of-service periods scheduled for each vessel on the ability of the overall system to deliver uninterrupted service and will assess the risk of service disruption from unscheduled maintenance or longer than planned maintenance periods.

~~((15))~~ (14) The department shall work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on all large ferry terminal projects. These projects must be conducted with active archaeological management. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

~~((16))~~ (15) The Puget Sound capital construction account--state appropriation includes up to ~~((118,000,000))~~ \$114,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

(16) The Puget Sound capital construction account--state appropriation reflects the reduction of three terminal positions due to decreased terminal activity and funding.

Sec. 307. 2009 c 470 s 310 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--CAPITAL

Essential Rail Assistance Account--State	Appropriation.....	((675,000))	<u>\$333,000</u>
Transportation Infrastructure Account--State	Appropriation.....	((13,100,000))	<u>\$13,184,000</u>
Multimodal Transportation Account--State	Appropriation.....	((68,530,000))	<u>\$102,202,000</u>
Multimodal Transportation Account--Federal	Appropriation.....	((16,054,000))	<u>\$619,527,000</u>
Multimodal Transportation Account--Private/Local	Appropriation.....	\$81,000	
TOTAL APPROPRIATION.....		((98,440,000))	<u>\$735,327,000</u>

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

(1)(a) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by ~~((fund))~~ project~~(s))~~ and amount in LEAP Transportation Document ALL PROJECTS ~~((2009-2))~~ 2010-2 as developed ~~((April 24, 2009))~~ March 8, 2010, Program - Rail Capital Program (Y). ~~((However, limited transfers of specific line item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.))~~

(b)(i) Within the amounts provided in this section, \$116,000 of the transportation infrastructure account--state appropriation is for a low-interest loan through the freight rail investment bank program to the Port of Ephrata (BIN 722710A) for rehabilitation of a rail spur.

(ii) Within the amounts provided in this section, \$1,200,000 of the transportation infrastructure account--state appropriation is for a low-interest loan through the freight rail investment bank program to the Port of Everett (BIN 722810A) for a new rail track to connect a cement loading facility to the mainline.

~~((iii))~~ ~~((Within the amounts provided in this section, \$3,684,000 of the transportation infrastructure account--state appropriation is for a low-interest loan through the freight rail investment bank program to the Port of Quincy for construction of a rail loop.~~

~~((iv))~~ The department shall issue the loans referenced in this subsection (1)(b) with a repayment period of no more than ten years, and only so much interest as is necessary to recoup the department's costs to administer the loans.

(c)(i) Within the amounts provided in this section, ~~((1,712,022))~~ \$1,713,000 of the multimodal transportation account--state appropriation and ~~((175,000))~~ \$333,000 of the essential rail assistance account--state appropriation are for statewide - emergent freight rail assistance projects as follows: Port of Ephrata/Ephrata - additional spur rehabilitation (BIN 722710A) ~~((362,746))~~ \$363,000; Tacoma Rail/Tacoma - new refinery spur tracks (BIN 711010A) \$420,000; CW Line/Lincoln County - grade crossing rehabilitation (BIN 700610A) ~~((370,650))~~ \$371,000; ~~((Clark County))~~ Chelatchie Prairie owned railroad/Vancouver - track rehabilitation (BIN 710110A) ~~((366,813))~~ \$367,000; Tacoma Rail/Tacoma - improved locomotive facility (BIN 711010B) ~~((366,813))~~ \$525,000.

(ii) ~~((Within the amounts provided in this section, \$500,000 of the essential rail assistance account--state appropriation and \$25,000 of the multimodal transportation account--state appropriation are for a statewide--emergent freight rail assistance project grant for the Tacoma Rail/Roy--new connection to BNSF and Yelm (BIN 711310A) project, provided that the grantee first executes a written instrument that imposes on the grantee the obligation to repay the grant within thirty days in the event that the grantee discontinues or significantly diminishes service along the line within a period of five years from the date that the grant is awarded.~~

~~((iii))~~ Within the amounts provided in this section, ~~((337,978))~~ \$338,000 of the multimodal transportation account--state appropriation is for a statewide - emergent freight rail assistance project grant for the Lincoln County PDA/Creston - new rail spur (BIN 710510A) project, provided that the grantee first documents to the satisfaction of the department sufficient commitments from the new shipper or shippers to locate in the publicly owned industrial park west of Creston to ensure that the net present value of the public benefits of the project is greater than the grant amount.

(d) Within the amounts provided in this section, ~~((8,100,000))~~ \$8,115,000 of the transportation infrastructure account--state appropriation is for grants to any intergovernmental entity or local rail district to which the department of transportation assigns the management and oversight responsibility for the business and economic development elements of existing operating leases on the Palouse River and Coulee City (PCC) rail lines. \$300,000 of the transportation infrastructure account--state appropriation is provided solely for the fence line replacement project on the CW line. The PCC rail line system is made up of the CW, P&L, and PV Hooper rail lines. Business and economic development elements include such items as levels of service and business operating plans, but must not include the state's oversight of railroad regulatory compliance, rail infrastructure condition, or real property management issues. The PCC rail system must be managed in a self-sustaining manner and best efforts must be used to ensure that it does not require state capital or operating subsidy beyond the level of state funding expended on it to date. The assignment of the stated responsibilities to an intergovernmental entity or rail district must be on terms and conditions as the department of transportation and the intergovernmental entity or rail district mutually agree.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

The grant funds may be used only to refurbish the rail lines. It is the intent of the legislature to make the funds appropriated in this section available as grants to an intergovernmental entity or local rail district for the purposes stated in this section at least until June 30, 2012, and to reappropriate as necessary any portion of the appropriation in this section that is not used by June 30, 2011.

(2)(a) The department shall issue a call for projects for the freight rail investment bank program and the emergent freight rail assistance program, and shall evaluate the applications according to the cost benefit methodology developed during the 2008 interim using the legislative priorities specified in (c) of this subsection. By November 1, 2010, the department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature.

(b) When the department identifies a prospective rail project that may have strategic significance for the state, or at the request of a proponent of a prospective rail project or a member of the legislature, the department shall evaluate the prospective project according to the cost benefit methodology developed during the 2008 interim using the legislative priorities specified in (c) of this subsection. The department shall report its cost benefit evaluation of the prospective rail project, as well as the department's best estimate of an appropriate construction schedule and total project costs, to the office of financial management and the transportation committees of the legislature.

(c) The legislative priorities to be used in the cost benefit methodology are, in order of relative importance:

- (i) Economic, safety, or environmental advantages of freight movement by rail compared to alternative modes;
- (ii) Self-sustaining economic development that creates family-wage jobs;
- (iii) Preservation of transportation corridors that would otherwise be lost;
- (iv) Increased access to efficient and cost-effective transport to market for Washington's agricultural and industrial products;
- (v) Better integration and cooperation within the regional, national, and international systems of freight distribution; and
- (vi) Mitigation of impacts of increased rail traffic on communities.

(3) The department is directed to seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in program Y.

(4) At the earliest possible date, the department shall apply, and assist ports and local jurisdictions in applying, for any federal funding that may be available for any projects that may qualify for such federal funding. State projects must be (a) currently identified on the project list referenced in subsection (1)(a) of this section or (b) projects for which no state match is required to complete the project. Local or port projects must not require additional state funding in order to complete the project, with the exception of (c) state funds currently appropriated for such project if currently identified on the project list referenced in subsection (1)(a) of this section or (d) potential grants awarded in the competitive grant process for the essential rail assistance program. If the department receives any federal funding, the department is authorized to obligate and spend the federal funds in accordance with federal law. To the extent permissible by federal law, federal funds may be used (e) in addition to state funds appropriated for projects currently identified on the project list referenced in subsection (1)(a) of this section in order to advance funding from future biennia for such project(s) or (f) in lieu of state funds; however, the state funds must be redirected within the rail capital program to advance funding for other projects currently identified on the project list referenced in subsection (1)(a) of this section. State funds may be redirected only upon consultation with the transportation committees of the

legislature and the office of financial management, and approval by the director of the office of financial management. The department shall spend the federal funds before the state funds, and shall consult the office of financial management and the transportation committees of the legislature regarding project scope changes.

(5) The department shall provide quarterly reports to the office of financial management and the transportation committees of the legislature regarding applications that the department submits for federal funds ~~(and the status of such applications)~~ ~~(and the status of projects identified on the list referenced in subsection (1)(a) of this section. The quarterly report regarding the status of projects identified on the list referenced in subsection (1)(a) of this section must be developed according to an earned value method of project monitoring).~~

(6) The department shall, on a quarterly basis, provide to the office of financial management and the legislature reports providing the status on active projects identified in the LEAP transportation document described in subsection (1)(a) of this section. Report formatting and elements must be consistent with the October 2009 quarterly project report.

(7) The multimodal transportation account--state appropriation includes up to ~~(((\$20,000,000))~~ \$48,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.867.

~~((7))~~ (8) When the balance of that portion of the miscellaneous program account apportioned to the department for the grain train program reaches \$1,180,000, the department shall acquire twenty-nine additional grain train railcars.

(9) \$590,000,000 of the multimodal transportation account--federal appropriation is provided solely for high-speed rail projects awarded to Washington state from the high-speed intercity passenger rail program under the American recovery and reinvestment act. Funding will allow for two additional round trips between Seattle and Portland, and other rail improvements.

(10) \$2,200,000 of the multimodal transportation account--state appropriation is provided solely for expenditures related to the capital high-speed passenger rail grant that are not federally reimbursable.

(11) The Burlington Northern Santa Fe Skagit river bridge is an integral part of the rail system. Constructed in 1916, the bridge does not meet current design standards and is at risk during flood events that occur on the Skagit river. The department shall work with Burlington Northern Santa Fe and local jurisdictions to secure federal funding for the Skagit river bridge and to develop an appropriate replacement plan and schedule.

(12) \$1,000,000 of the multimodal transportation account--state appropriation is provided solely for additional expenditures along the Chelatchie Prairie railroad (LN2000025).

Sec. 308. 2009 c 470 s 311 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z-- CAPITAL

Highway Infrastructure Account--State Appropriation.....	\$207,000
Highway Infrastructure Account--Federal	
Appropriation.....	\$1,602,000
Freight Mobility Investment Account--State	
Appropriation.....	(((\$13,548,000))
	<u>\$13,848,000</u>
Transportation Partnership Account--State	
Appropriation.....	\$8,863,000
Motor Vehicle Account--State Appropriation.....	(((\$12,954,000))
	<u>\$14,068,000</u>
Motor Vehicle Account--Federal Appropriation.....	(((\$39,572,000))
	<u>\$43,835,000</u>
Freight Mobility Multimodal Account--State	

Appropriation.....	(\$14,920,000)	\$15,620,000
Freight Mobility Multimodal Account--Local		
Appropriation.....	(\$3,135,000)	\$3,258,000
Multimodal Transportation Account--Federal		
Appropriation.....	(\$2,098,000)	\$2,118,000
Multimodal Transportation Account--State		
Appropriation.....	(\$28,262,000)	\$28,855,000
Transportation 2003 Account (Nickel Account)--State		
Appropriation.....	(\$709,000)	\$2,709,000
Passenger Ferry Account--State Appropriation.....	\$2,879,000	
<u>Puyallup Tribal Settlement Account--State</u>		
Appropriation.....	\$5,895,000	
<u>TOTAL APPROPRIATION.....</u>	<u>(\$128,749,000)</u>	<u>\$143,757,000</u>

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

- (1) The department shall, on a quarterly basis, provide status reports to the legislature on the delivery of projects as outlined in the project lists incorporated in this section. For projects funded by new revenue in the 2003 and 2005 transportation packages, reporting elements shall include, but not be limited to, project scope, schedule, and costs. Other projects may be reported on a programmatic basis. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information system (TEIS).
- (2) \$2,729,000 of the passenger ferry account--state appropriation is provided solely for near and long-term costs of capital improvements in a business plan approved by the governor for passenger ferry service.
- (3) \$150,000 of the passenger ferry account--state appropriation is provided solely for the Port of Kingston for a one-time operating subsidy needed to retain a federal grant.
- (4) \$3,000,000 of the motor vehicle account--federal appropriation is provided solely for the Coal Creek parkway project (L1000025).
- (5) The department shall seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.
- (6) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.
- (7) Federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the office of financial management. The department shall submit a report on those projects receiving fund transfers to the office of financial management and the transportation committees of the legislature by December 1, 2009, and December 1, 2010.
- (8) The city of Winthrop may utilize a design-build process for the Winthrop bike path project. Of the amount appropriated in this section for this project, \$500,000 of the multimodal transportation account-- state appropriation is contingent upon the state receiving from the city of Winthrop \$500,000 in federal funds awarded to the city of Winthrop by its local planning organization.

(9) (~~(\$18,182,113)~~) \$18,289,000 of the multimodal transportation account--state appropriation, (~~(\$8,753,895)~~) \$8,810,000 of the motor vehicle account--federal appropriation, and \$4,000,000 of the transportation partnership account--state appropriation are provided solely for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified in LEAP Transportation Document 2009-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed March 30, 2009, LEAP Transportation Document 2007-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed April 20, 2007, and LEAP Transportation Document 2006-B, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed March 8, 2006. Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

(10) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by (~~(fund,)~~) project(~~(s)~~) and amount in LEAP Transportation Document ALL PROJECTS (~~(2009-2)~~) 2010-2 as developed (~~(April 24, 2009)~~) March 8, 2010, Program(~~(s)~~) - Local Program (Z).

(11) For the 2009-11 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects managed by the freight mobility strategic investment board in order for the board to manage project spending and efficiently deliver all projects in the respective program.

(12) \$913,386 of the motor vehicle account--state appropriation and (~~(\$2,858,216)~~) \$2,858,000 of the motor vehicle account--federal appropriation are provided solely for completion of the US 101 northeast peninsula safety rest area and associated roadway improvements east of Port Angeles at the Deer Park scenic view point. The department must surplus any right-of-way previously purchased for this project near Sequim. Approval to proceed with construction is contingent on surplus of previously purchased right-of-way. \$865,000 of the motor vehicle account--state appropriation is to be placed into unallotted status until such time as the right-of-way sale is completed.

(13) \$5,894,000 of the Puyallup tribal settlement account--state appropriation is provided solely for costs associated with the Murray Morgan/11th Street bridge project. The city of Tacoma may use the Puyallup tribal settlement account appropriation and other appropriated funds for bridge rehabilitation, bridge replacement, bridge demolition, and bridge mitigation. The department's participation, including prior expenditures, may not exceed \$40,270,000. The city of Tacoma has taken ownership of the bridge in its entirety, and the payment of these funds extinguishes any real or implied agreements regarding future bridge expenditures.

(14) Up to \$3,702,000 of the motor vehicle account--federal appropriation and \$75,000 of the motor vehicle account--state appropriation are provided solely to reimburse the cities of Kirkland and Redmond for pavement and bridge deck rehabilitation on state route number 908 (project 1LP611A). These funds may not be expended unless the cities sign an agreement stating that the cities agree to take ownership of state route number 908 in its entirety and agree that the payment of these funds represents the entire state

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

commitment to the cities for state route number 908 expenditures. The amount provided in this subsection is contingent on the enactment by June 30, 2010, of Senate Bill No. 6555.

(15) The department shall consider the condition of the Broadway bridge in the city of Everett when prioritizing bridge projects.

(16) In order to make the Hood Canal bridge safe for cyclists, the department must work with stakeholders to review bicycle safety needs on the bridge, including consideration of accident data and improvements already made to this project.

(17) \$250,000 of the multimodal transportation account--state appropriation is provided solely for the Shell Valley emergency access road and bicycle/pedestrian path.

(18) \$500,000 of the motor vehicle account--state appropriation is provided solely for improvements to the 150th and Murray Road intersection in the city of Lakewood.

(19) \$250,000 of the motor vehicle account--state appropriation is provided solely for flood reduction solutions on state route number 522 caused by the lower McAleer and Lyon creek basins.

(20) \$200,000 of the motor vehicle account--state appropriation is provided solely for improvements to the intersection of 39th Ave SE and state route number 96 in Snohomish county.

TRANSFERS AND DISTRIBUTIONS

Sec. 401. 2009 c 470 s 401 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE

Table with financial data for Sec. 401, including Highway Bond Retirement Account, Ferry Bond Retirement Account, State Route Number 520 Corridor Account, and various other accounts with their respective appropriations and transfers.

Sec. 402. 2009 c 470 s 402 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION

AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES

Table with financial data for bond sale expenses and fiscal agent charges, including State Route Number 520 Corridor Account, Transportation Partnership Account, Motor Vehicle Account, and various other accounts.

Sec. 403. 2009 c 470 s 403 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS

Table with financial data for Sec. 403, including Motor Vehicle Account--State Appropriation for transfer to the Puget Sound Capital Construction Account.

The department of transportation is authorized to sell up to \$114,000,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries.

Sec. 404. 2009 c 470 s 404 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION

Table with financial data for Sec. 404, including Motor Vehicle Account Appropriation for motor vehicle fuel tax distributions to cities and counties.

Sec. 405. 2009 c 470 s 405 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--TRANSFERS

Table with financial data for Sec. 405, including Motor Vehicle Account--State Appropriation for motor vehicle fuel tax refunds and statutory transfers.

Sec. 406. 2009 c 470 s 406 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING--TRANSFERS

Table with financial data for Sec. 406, including Motor Vehicle Account--State Appropriation for motor vehicle fuel tax refunds and transfers.

Sec. 407. 2009 c 470 s 407 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--ADMINISTRATIVE TRANSFERS

Table with financial data for Sec. 407, including Tacoma Narrows Toll Bridge Account--State Appropriation for transfer to the Motor Vehicle Account--State.

(2) Motor Vehicle Account--State Appropriation:
 For transfer to the Puget Sound Ferry Operations
 Account--State.....(((\$17,000,000))
\$54,000,000

(3) Recreational Vehicle Account--State
 Appropriation: For transfer to the Motor Vehicle
 Account--State.....\$2,000,000

(4) License Plate Technology Account--State
 Appropriation: For transfer to the Highway Safety
 Account--State.....\$2,750,000

(5) Multimodal Transportation Account--State
 Appropriation: For transfer to the Puget Sound
 Ferry Operations Account--State.....\$9,000,000

(6) Highway Safety Account--State Appropriation:
 For transfer to the Multimodal Transportation
 Account--State.....\$18,750,000

(7) Department of Licensing Services Account--State
 Appropriation: For transfer to the Motor Vehicle
 Account--State.....(((\$2,000,000))
\$1,300,000

(8) Advanced Right-of-Way Account: For transfer
 to the Motor Vehicle Account--State.....\$14,000,000

(9) ~~(Motor Vehicle Account--State Appropriation:
 For transfer to the Transportation Partnership
 Account--State.....\$8,000,000))~~

(10) State Route Number 520 Civil Penalties
 Account--State Appropriation: For transfer to the
 State Route Number 520 Corridor Account--State.....\$190,000.

(11) Advanced Environmental Mitigation Revolving
 Account--State Appropriation: For transfer to the
 Motor Vehicle Account--State.....\$5,000,000

(12) Regional Mobility Grant Program Account--State
 Appropriation: For transfer to the Multimodal
 Transportation Account--State.....\$4,000,000

(13) Motor Vehicle Account--State Appropriation:
 For transfer to the State Patrol Highway Account--State\$4,000,000

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

(a) The amount transferred in subsection (1) of this section
 represents repayment of operating loans and reserve payments
 provided to the Tacoma Narrows toll bridge account from the motor
 vehicle account in the 2005-07 fiscal biennium. However, if
 Engrossed Substitute Senate Bill No. 6499 is enacted by June 30,
 2010, the transfer in subsection (1) of this section shall not occur.

(b) Any cash balance in the waste tire removal account in excess of
 one million dollars must be transferred to the motor vehicle account
 for the purpose of road wear-related maintenance on state and local
 public highways.

(c) The transfer in subsection (10) of this section represents toll
 revenue collected from toll violations.

COMPENSATION

Sec. 501. 2009 c 470 s 501 (uncodified) is amended to read as
 follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT--
 REVISED PENSION CONTRIBUTION RATES**

(Aeronautics Account--State.....)	(\$40,000)
Grade Crossing Protective Account--State.....	(\$2,000)
State Patrol Highway Account--State.....	(\$5,593,000)
Motorcycle Safety Education Account--State.....	(\$18,000)
High Occupancy Toll Lanes Operations Account--State.....	(\$20,000)
Rural Arterial Trust Account--State.....	(\$20,000)
Wildlife Account--State.....	(\$16,000)
Highway Safety Account--State.....	(\$1,869,000)
Highway Safety Account--Federal.....	(\$56,000)

Motor Vehicle Account--State.....	(\$11,348,000)
Puget Sound Ferry Operations Account--State.....	(\$5,019,000)
Urban Arterial Trust Account--State.....	(\$26,000)
Transportation Improvement Account--State.....	(\$26,000)
County Arterial Preservation Account--State.....	(\$22,000)
Department of Licensing Services Account--State.....	(\$36,000)
Multimodal Transportation Account--State.....	(\$220,000)
Tacoma Narrows Toll Bridge Account--State.....	(\$28,000)
Puget Sound Capital Construction Account--State.....	(\$459,000)
Motor Vehicle Account--Federal.....	(\$8,791,000)

~~Appropriations are adjusted to reflect changes to appropriations
 to reflect savings resulting from pension funding. The office of
 financial management shall update agency appropriations schedules
 to reflect the changes to funding levels in this section as identified
 by agency and fund in LEAP transportation document Z9R 2009.
 From the applicable accounts, the office of financial management
 shall adjust allotments to the respective agencies by an amount that
 conforms with funding adjustments enacted in the 2009-11 omnibus
 operating appropriations act. Any allotment reductions under this
 section shall be placed in reserve status and remain unexpended.)
 Appropriations in this act include agency appropriations to reflect
 increased employer contribution rates in the public employees'
 retirement system as a result of the provisions in chapter 430, Laws
 of 2009 (calculating compensation for public retirement purpose).~~

**NEW SECTION. Sec. 502. FOR THE OFFICE OF
 FINANCIAL MANAGEMENT-- REVISED EMPLOYER
 HEALTH BENEFIT RATES**

Aeronautics Account--State.....	\$3,000
State Patrol Highway Account--State.....	\$618,000
Motorcycle Safety Education Account--State.....	\$2,000
High Occupancy Toll Lanes Operations Account--State.....	\$2,000
Rural Arterial Trust Account--State.....	\$2,000
Wildlife Account--State.....	\$2,000
Highway Safety Account--State.....	\$261,000
Highway Safety Account--Federal.....	\$6,000
Motor Vehicle Account--State.....	\$1,076,000
Puget Sound Ferry Operations Account--State.....	\$527,000
Urban Arterial Trust Account--State.....	\$2,000
Transportation Improvement Account--State.....	\$2,000
County Arterial Preservation Account--State.....	\$2,000
Department of Licensing Services Account--State.....	\$3,000
Multimodal Transportation Account--State.....	\$13,000
Tacoma Narrows Toll Bridge Account--State.....	\$3,000

Appropriations are adjusted to reflect changes to appropriations
 to reflect changes in the employer cost of providing health benefit
 coverage. The office of financial management shall update agency
 appropriations schedules to reflect the changes in funding levels in
 this section as identified by agency and fund in LEAP transportation
 document GLB-2010. From the applicable accounts, the office of
 financial management shall adjust allotments to the respective
 agencies by an amount that conforms with funding adjustments
 enacted in the 2010 supplemental omnibus operating appropriations
 act. Any allotment reductions under this section must be placed in
 reserve status and remain unexpended.

Sec. 503. 2009 c 470 s 503 (uncodified) is amended to read as
 follows:

COMPENSATION--INSURANCE BENEFITS.

Appropriations for state agencies in this act are sufficient for
 nonrepresented and represented state employee health benefits for
 state agencies, and are subject to the following conditions and
 limitations:

(1)(a) Unless otherwise provided in the 2010 supplemental
 omnibus operating appropriations act, the monthly employer
 funding rate for insurance benefit premiums, public employees'
 benefits board administration, and the uniform medical plan, shall
 not exceed \$745 per eligible employee for fiscal year 2010. For

FIFTY EIGHTH DAY, MARCH 9, 2010

fiscal year 2011, the monthly employer funding rate shall not exceed ~~(((\$768))~~ \$795 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments; increases in point-of-service cost sharing; the implementation of managed competition; or make other changes to benefits consistent with RCW 41.05.065. During the 2009-11 fiscal biennium, the board may only authorize benefit plans and premium contributions for an employee and the employee's dependents that are the same, regardless of an employee's status as represented or nonrepresented under the personnel system reform act of 2002.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(d) The conditions in this section apply to benefits for nonrepresented employees, employees represented by the super coalition, and represented employees outside of the super coalition, including employees represented under chapter 47.64 RCW.

(2) Unless otherwise provided in the 2010 supplemental omnibus operating appropriations act, the health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2010, through December 31, 2010, the subsidy shall be \$182.89. Beginning January 1, 2011, the subsidy shall be \$182.89 per month.

IMPLEMENTING PROVISIONS

Sec. 601. 2009 c 470 s 304 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION. As part of its budget submittal ~~((for the 2011-13 fiscal biennium))~~, the department shall provide an annual update to the report provided to the legislature and the office of financial management in 2008 that:

(1) Compares the original project cost estimates approved in the 2003 and 2005 project lists to the completed cost of the project, or the most recent legislatively approved budget and total project costs for projects not yet completed;

(2) Identifies highway projects that may be reduced in scope and still achieve a functional benefit;

(3) Identifies highway projects that have experienced scope increases and that can be reduced in scope;

(4) Identifies highway projects that have lost significant local or regional contributions that were essential to completing the project; and

(5) Identifies contingency amounts allocated to projects.

NEW SECTION. Sec. 602. Any redistributed federal funds received by the department of transportation must, to the greatest extent possible, be first applied to offset planned expenditures of state funds, and second, to offset planned expenditures of federal funds, on projects as identified in the LEAP transportation documents described in this act. If the redistributed federal funds cannot be used in this manner, the department of transportation must consult with the joint transportation committee prior to obligating any redistributed federal funds.

Sec. 603. 2009 c 470 s 603 (uncodified) is amended to read as follows:

FUND TRANSFERS. (1) The transportation 2003 projects or improvements and the 2005 transportation partnership projects or

2010 REGULAR SESSION

improvements are listed in LEAP Transportation Document ~~((2009-1))~~ 2010-1 as developed ~~((April 24, 2009))~~ March 8, 2010, which consists of a list of specific projects by fund source and amount over a sixteen year period. Current fiscal biennium funding for each project is a line item appropriation, while the outer year funding allocations represent a sixteen year plan. The department is expected to use the flexibility provided in this section to assist in the delivery and completion of all transportation partnership account and transportation 2003 (nickel) account projects on the LEAP lists referenced in this act. For the 2009-11 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects funded with transportation 2003 account (nickel account) appropriations ~~((or multimodal transportation account appropriations))~~ or transportation partnership account appropriations, in order to manage project spending and efficiently deliver all projects in the respective program under the following conditions and limitations:

(a) Transfers may only be made within each specific fund source referenced on the respective project list;

(b) Transfers from a project may not be made as a result of the reduction of the scope of a project, nor shall a transfer be made to support increases in the scope of a project;

(c) Each transfer between projects may only occur if the director of financial management finds that any resulting change will not hinder the completion of the projects as approved by the legislature. Until the legislature reconvenes to consider the 2010 supplemental budget, any unexpended 2007-09 appropriation balance as approved by the office of financial management, in consultation with the legislative staff of the house of representatives and senate transportation committees, may be considered when transferring funds between projects;

(d) Transfers from a project may be made if the funds appropriated to the project are in excess of the amount needed to complete the project;

(e) Transfers may not occur to projects not identified on the applicable project list, except for those projects that were expected to be completed in the 2007-09 fiscal biennium; ~~((and))~~

(f) Transfers may not be made while the legislature is in session; and

(g) Transfers between projects may be made by the department of transportation until the transfer amount by project exceeds two hundred fifty thousand dollars, or ten percent of the project, whichever is less. These transfers must be reported quarterly to the director of financial management and the chairs of the house of representatives and senate transportation committees.

(2) At the time the department submits a request to transfer funds under this section a copy of the request shall be submitted to the transportation committees of the legislature.

(3) The office of financial management shall work with legislative staff of the house of representatives and senate transportation committees to review the requested transfers.

(4) The office of financial management shall document approved transfers and/or schedule changes in the transportation executive information system (TEIS), compare changes to the legislative baseline funding and schedules identified by project identification number identified in the LEAP lists adopted in this act, and transmit revised project lists to chairs of the transportation committees of the legislature on a quarterly basis.

MISCELLANEOUS 2009-11 FISCAL BIENNIUM

Sec. 701. RCW 43.19.642 and 2009 c 470 s 716 are each amended to read as follows:

(1) Effective June 1, 2006, for agencies complying with the ultra-low sulfur diesel mandate of the United States environmental protection agency for on-highway diesel fuel, agencies shall use biodiesel as an additive to ultra-low sulfur diesel for lubricity, provided that the use of a lubricity additive is warranted and that the use of biodiesel is comparable in performance and cost with other available lubricity additives. The amount of biodiesel added to the ultra-low sulfur diesel fuel shall be not less than two percent.

(2) Effective June 1, 2009, state agencies are required to use a minimum of twenty percent biodiesel as compared to total volume of all diesel purchases made by the agencies for the operation of the agencies' diesel-powered vessels, vehicles, and construction equipment.

(3) All state agencies using biodiesel fuel shall, beginning on July 1, 2006, file biannual reports with the department of general administration documenting the use of the fuel and a description of how any problems encountered were resolved.

(4) For the 2009-2011 fiscal biennium, ~~((the Washington state ferries is required to use a minimum of five percent biodiesel as compared to total volume of all diesel purchases made by the Washington state ferries for the operation of the Washington state ferries diesel powered vessels))~~ all fuel purchased by the Washington state ferries at Harbor Island for the operation of the Washington state ferries diesel powered vessels must be a minimum of five percent biodiesel blend so long as the per gallon price of diesel containing a five percent biodiesel blend level does not exceed the per gallon price of diesel by more than five percent. If the per gallon price of diesel containing a five percent biodiesel blend level exceeds the per gallon price of diesel by more than five percent, the requirements of this section do not apply to vessel fuel purchases by the Washington state ferries.

(5) By December 1, 2009, the department of general administration shall:

(a) Report to the legislature on the average true price differential for biodiesel by blend and location; and

(b) Examine alternative fuel procurement methods that work to address potential market barriers for in-state biodiesel producers and report these findings to the legislature.

Sec. 702. RCW 46.68.320 and 2006 c 337 s 8 are each amended to read as follows:

(1) The regional mobility grant program account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the grants provided under RCW 47.66.030.

(2) Beginning with September 2007, by the last day of September, December, March, and June of each year, the state treasurer shall transfer from the multimodal transportation account to the regional mobility grant program account five million dollars.

(3) Beginning with September 2015, by the last day of September, December, March, and June of each year, the state treasurer shall transfer from the multimodal transportation account to the regional mobility grant program account six million two hundred fifty thousand dollars.

(4) During the 2009-2011 fiscal biennium, the legislature may transfer from the regional mobility grant program account to the multimodal transportation account such amounts as reflect the excess fund balance of the regional mobility grant program account.

Sec. 703. RCW 47.12.340 and 1997 c 140 s 3 are each amended to read as follows:

The advanced environmental mitigation revolving account is created in the custody of the treasurer, into which the department shall deposit directly and may expend without appropriation:

(1) An initial appropriation included in the department of transportation's 1997-99 budget, and deposits from other identified sources;

(2) All moneys received by the department from internal and external sources for the purposes of conducting advanced environmental mitigation; and

(3) Interest gained from the management of the advanced environmental mitigation revolving account.

(4) During the 2009-2011 fiscal biennium, the legislature may transfer from the advanced environmental mitigation revolving account to the motor vehicle account such amounts as reflect the excess fund balance of the advanced environmental mitigation revolving account.

Sec. 704. RCW 70.95.532 and 2009 c 261 s 4 are each amended to read as follows:

(1) All receipts from tire fees imposed under RCW 70.95.510, except as provided in subsection (2) of this section, must be deposited in the waste tire removal account created under RCW 70.95.521. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for the cleanup of unauthorized waste tire piles and measures that prevent future accumulation of unauthorized waste tire piles.

(2) On September 1st of odd-numbered years, the state treasurer must transfer any cash balance in excess of one million dollars from the waste tire removal account created under RCW 70.95.521 to the motor vehicle account for the purpose of road wear related maintenance on state and local public highways.

(3) During the 2009-2011 fiscal biennium, the legislature may transfer any cash balance in excess of one million dollars from the waste tire removal account to the motor vehicle account for the purpose of road wear-related maintenance on state and local public highways.

NEW SECTION. **Sec. 705.** 2009 c 470 s 502 is repealed.

MISCELLANEOUS

NEW SECTION. **Sec. 801.** 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. 802.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

(End of bill)

INDEX

COMPENSATION

INSURANCE BENEFITS94

COUNTY ROAD ADMINISTRATION BOARD8, 52

DEPARTMENT OF AGRICULTURE4

DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION3

DEPARTMENT OF LICENSING20

TRANSFERS90

DEPARTMENT OF TRANSPORTATION95

AMERICAN RECOVERY AND REINVESTMENT ACT OF 20091

AVIATION--PROGRAM F28

ECONOMIC PARTNERSHIPS--PROGRAM K32

FACILITIES--PROGRAM D--OPERATING28

HIGHWAY MAINTENANCE--PROGRAM M33

IMPROVEMENTS--PROGRAM I54

INFORMATION TECHNOLOGY--PROGRAM C26

LOCAL PROGRAMS--PROGRAM Z--CAPITAL84

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

LOCAL PROGRAMS--PROGRAM Z--OPERATING52
 MARINE--PROGRAM X47
 PRESERVATION--PROGRAM P67
 PROGRAM DELIVERY MANAGEMENT AND
 SUPPORT--PROGRAM H29
 PUBLIC TRANSPORTATION--PROGRAM V41
 RAIL--PROGRAM Y--OPERATING52
 RAIL--PROGRAM Y--CAPITAL78
 TOLL OPERATIONS AND MAINTENANCE--PROGRAM
 B 24
 TRAFFIC OPERATIONS--PROGRAM Q--CAPITAL71
 TRAFFIC OPERATIONS--PROGRAM Q--OPERATING ..34
 TRANSPORTATION MANAGEMENT AND
 SUPPORT--PROGRAM S38
 TRANSPORTATION PLANNING, DATA, AND
 RESEARCH--PROGRAM T39
 WASHINGTON STATE FERRIES
 CONSTRUCTION--PROGRAM W72
 FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD 16
 JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE .5
 JOINT TRANSPORTATION COMMITTEE9
 LEGISLATIVE EVALUATION AND ACCOUNTABILITY
 PROGRAM COMMITTEE5
 MARINE EMPLOYEES COMMISSION4
 OFFICE OF FINANCIAL MANAGEMENT3
 REVISED EMPLOYER HEALTH BENEFIT RATES93
 REVISED PENSION CONTRIBUTION RATES92
 STATE PARKS AND RECREATION COMMISSION4
 STATE TREASURER
 ADMINISTRATIVE TRANSFERS91
 BOND RETIREMENT AND INTEREST88, 89, 90
 STATE REVENUES FOR DISTRIBUTION90
 TRANSFERS90
 TRANSPORTATION COMMISSION14
 TRANSPORTATION IMPROVEMENT BOARD9, 53
 UTILITIES AND TRANSPORTATION COMMISSION3
 WASHINGTON STATE PATROL
 FIELD OPERATIONS BUREAU16
 TECHNICAL SERVICES BUREAU19
 WASHINGTON STATE PATROL--INVESTIGATIVE
 SERVICES BUREAU19
 WASHINGTON TRAFFIC SAFETY COMMISSION7"

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 Engrossed Substitute Senate Bill No. 6381.

Senators Haugen, Marr and Pridemore spoke in favor of passage of the motion.

Senators Zarelli, Benton and Carrell spoke against passage 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 Engrossed Substitute Senate Bill No. 6381.

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

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

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6381, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 11; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Benton, Carrell, Delvin, Holmquist, Honeyford, Morton, Pflug, Roach, Schoesler, Stevens and Zarelli
 Excused: Senator McCaslin

ENGROSSED SUBSTITUTE 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.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the Points of Order raised by Senator Brandland as to whether the House amendments to Second Engrossed Substitute Senate Bill 6508 violate Senate Rules 25 and 66 by including a subject not reflected in the bill's title and beyond the scope and object of the bill, the President finds and rules as follows.

The bill as it passed the Senate defined the rights and liabilities of various parties with respect to the wrongful death of an adult child. That bill included a joint and several liability provision to limit claims against the state and local governments.

The House amendments remove the joint and several liability limitation altogether, and then add in provisions by which local governments may be reimbursed for certain wrongful death claims by making a claim against a newly-created account. That account is to be funded by the imposition of an additional five dollar charge for traffic infractions and a ten dollar charge for superior court filing fees.

As passed by the Senate, it is fair to say that the Senate version approached the issue of wrongful death liability—and its limitations—by assigning and limiting the rights and liabilities of various private and governmental parties. There was no provision for any funding, and, while government liability would likely arise from claims, such potential claims derive from private lawsuits, not a state program or mandate. Creating an entirely new account and imposing additional fees, as well as a mechanism by which local governments can make claims for reimbursement of payments made in connection with wrongful death lawsuits, goes well beyond merely adjusting the rights and liabilities of the parties to a private lawsuit. For these reasons, the amendments impermissibly broaden the scope of the bill.

Similarly, because the amendments remove the joint and several liability provisions entirely, the title no longer reflects the subject of the bill, which includes the language:

‘AN ACT Relating to wrongful death or survival actions . . . by limiting the liability of state and local agencies or political subdivisions in those recoveries.’

As a result, the title no longer meets the mandate of Senate Rule 25, which requires that the subject of the bill be described in the title.

For these reasons, the President finds that the House amendments may not be considered for concurrence by this body, and Senator Brandland's points are well-taken."

MOTION

Senator Hargrove moved that the Senate insist on its position on the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6508 and ask the House to recede thereon.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate insist on its position on the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6508 and ask the House to recede thereon.

The motion by Senator Hargrove carried and the Senate insisted on its position in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6508 and asked the House to recede thereon by voice vote.

MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 6667 with the following amendment(s): 6667-S2 AMH ENGR H5386.E

(0) Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that small businesses and entrepreneurs are a fundamental source of economic and community vitality for our state. They employ state residents, pay state taxes, purchase goods and services from local and regional companies, and contribute to our communities in many other ways. The legislature finds that small businesses and entrepreneurs need increased access to capital and technical assistance in order to maximize their potential. The legislature intends that the department of commerce and the small business development center each build upon their existing relevant statutory missions and authorities by collaborating on a specific plan to expand services to small businesses and entrepreneurs beginning in the 2011-2013 biennium.

Sec. 2. RCW 43.330.060 and 2005 c 136 s 13 are each amended to read as follows:

(1) The department shall (a) assist in expanding the state's role as an international center of trade, culture, and finance; (b) promote and market the state's products and services both nationally and internationally; (c) work in close cooperation with other private and public international trade efforts; (d) act as a centralized location for the assimilation and distribution of trade information; and (e) establish and operate foreign offices promoting overseas trade and commerce.

(2) The department shall identify and work with Washington businesses that can use local, state, and federal assistance to increase domestic and foreign exports of goods and services.

(3) The department shall work generally with small businesses and other employers to facilitate resolution of siting, regulatory, expansion, and retention problems. This assistance shall include but not be limited to assisting in workforce training and infrastructure needs, identifying and locating suitable business sites, and resolving problems with government licensing and regulatory requirements. The department shall identify gaps in needed services and develop steps to address them including private sector support and purchase of these services.

(4) The department shall work to increase the availability of capital to small businesses by developing new and flexible investment tools; by assisting in targeting and improving the efficiency of existing investment mechanisms; and by assisting in the procurement of managerial and technical assistance necessary to attract potential investors.

(5) The department shall assist women and minority-owned businesses in overcoming barriers to entrepreneurial success. The department shall contract with public and private agencies, institutions, and organizations to conduct entrepreneurial training courses for minority and women-owned businesses. The instruction shall be intensive, practical training courses in financing, marketing, managing, accounting, and recordkeeping for a small business, with an emphasis on federal, state, local, or private programs available to assist small businesses. Instruction shall be offered in major population centers throughout the state at times and locations that are convenient for minority and women small business owners.

(6)(a) Subject to the availability of amounts appropriated for this specific purpose, by December 1, 2010, the department, in conjunction with the small business development center, must prepare and present to the governor and appropriate legislative committees a specific, actionable plan to increase access to capital and technical assistance to small businesses and entrepreneurs beginning with the 2011-2013 biennium. In developing the plan, the department and the center may consult with the Washington state microenterprise association, and with other government, nonprofit, and private organizations as necessary. The plan must identify:

(i) Existing sources of capital and technical assistance for small businesses and entrepreneurs;

(ii) Critical gaps and barriers to availability of capital and delivery of technical assistance to small businesses and entrepreneurs;

(iii) Workable solutions to filling the gaps and removing barriers identified in (a)(ii) of this subsection; and

(iv) The financial resources and statutory changes necessary to put the plan into effect beginning with the 2011-2013 biennium.

(b) With respect to increasing access to capital, the plan must identify specific, feasible sources of capital and practical mechanisms for expanding access to it.

(c) The department and the center must include, within the analysis and recommendations in (a) of this subsection, any specific gaps, barriers, and solutions related to rural and low-income communities and small manufacturers interested in exporting.

Sec. 3. RCW 28B.30.530 and 2009 c 486 s 1 are each amended to read as follows:

(1) The board of regents of Washington State University shall establish the Washington State University small business development center.

(2) The center shall provide management and technical assistance including but not limited to training, counseling, and research services to small businesses throughout the state. The center shall work with the department of (~~community, trade, and economic development~~) commerce, the state board for community and technical colleges, the higher education coordinating board, the workforce training and education coordinating board, the employment security department, the Washington state economic development commission, associate development organizations, and workforce development councils to:

(a) Integrate small business development centers with other state and local economic development and workforce development programs;

(b) Target the centers' services to small businesses;

(c) Tailor outreach and services at each center to the needs and demographics of entrepreneurs and small businesses located within the service area;

(d) Establish and expand small business development center satellite offices when financially feasible; and

(e) Coordinate delivery of services to avoid duplication.

(3) The administrator of the center may contract with other public or private entities for the provision of specialized services.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

(4) The small business development center may accept and disburse federal grants or federal matching funds or other funds or donations from any source when made, granted, or donated to carry out the center's purposes. When drawing on funds from the business assistance account created in RCW ((~~30.60.010~~)) 28B.30.531, the center must first use the funds to make increased management and technical assistance available to existing small businesses and start-up businesses at satellite offices. The funds may also be used to develop and expand assistance programs such as small business planning workshops and small business counseling.

(5) ~~((The legislature directs the small business development center to request United States small business administration approval of a special emphasis initiative, as permitted under 13 C.F.R. 130.340(e) as of April 1, 2009, to target assistance to Washington state's smaller businesses. This initiative would be negotiated and included in the first cooperative agreement application process that occurs after July 26, 2009.~~

~~(6))~~ By ~~((December 1, 2009, and))~~ December 1, 2010, ~~((respectively,))~~ the center shall provide a written progress report and a final report to the appropriate committees of the legislature with respect to the requirements in subsection((s)) (2) ~~((and (5)))~~ of this section and the amount and use of funding received through the business assistance account. The reports must also include data on the number, location, staffing, and budget levels of satellite offices; affiliations with community colleges, associate development organizations or other local organizations; the number, size, and type of small businesses assisted; and the types of services provided. The reports must also include information on the outcomes achieved, such as jobs created or retained, private capital invested, and return on the investment of state and federal dollars.

(6)(a) Subject to the availability of amounts appropriated for this specific purpose, by December 1, 2010, the center, in conjunction with the department of commerce, must prepare and present to the governor and appropriate legislative committees a specific, actionable plan to increase access to capital and technical assistance to small businesses and entrepreneurs beginning with the 2011-2013 biennium. In developing the plan, the center and the department may consult with the Washington state microenterprise association, and with other government, nonprofit, and private organizations as necessary. The plan must identify:

(i) Existing sources of capital and technical assistance for small businesses and entrepreneurs;

(ii) Critical gaps and barriers to availability of capital and delivery of technical assistance to small businesses and entrepreneurs;

(iii) Workable solutions to filling the gaps and removing barriers identified in (a)(i) of this subsection; and

(iv) The financial resources and statutory changes necessary to put the plan into effect beginning with the 2011-2013 biennium.

(b) With respect to increasing access to capital, the plan must identify specific, feasible sources of capital and practical mechanisms for expanding access to it.

(c) The center and the department must include, within the analysis and recommendations in (a) of this subsection, any specific gaps, barriers, and solutions related to rural and low-income communities and small manufacturers interested in exporting."

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 Second Substitute Senate Bill No. 6667.

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 Second Substitute Senate Bill No. 6667.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6667 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6667, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6667, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

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

Voting nay: Senators Holmquist, Honeyford, Morton and Stevens

Excused: Senator McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6667, 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, 2010

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6267 with the following amendment(s): 6267-S2.E AMH ENGR H5369.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. Water is an essential element for economic prosperity and it generates new, family-wage jobs and state revenues. It is the intent of the legislature to provide both water right applicants and the department of ecology with the necessary tools to expedite the processing of water right applications depending on the needs of the project and agency workload.

NEW SECTION. Sec. 2. Sufficient resources to support the department of ecology's water resource program are essential for effective and sustainable water management that provides certainty to processed applications. The department of ecology shall review current water resource functions and report to the legislature and the governor by September 1, 2010, on improvements to make the program more self-sustaining and efficient.

Sec. 3. RCW 90.03.265 and 2003 c 70 s 6 are each amended to read as follows:

(1)(a) Any applicant for a new withdrawal or a change, transfer, or amendment of a water right pending before the department((;)) may initiate a cost-reimbursement agreement with the department to provide expedited review of the application. A cost-reimbursement agreement may ~~((only))~~ be initiated under this section if the applicant agrees to pay for, or as part of a cooperative effort agrees to pay for, the cost of processing his or her application and all other applications from the same source of supply which must be acted

upon before the applicant's request because they were filed prior to the date of when the applicant filed.

(b) The requirement to pay for the cost of other applications under (a) of this subsection does not apply to an application for a new appropriation that would not diminish the water available to earlier pending applicants for new appropriations from the same source of supply.

(c) The requirement to pay for the cost of processing other applications under (a) of this subsection does not apply to an application for a change, transfer, or other amendment that would not diminish the water available to earlier pending applicants for changes or transfers from the same source of supply.

(d) In determining whether an application would not diminish the water available to earlier pending applicants, the department shall consider any water impoundment or other water resource management mitigation technique proposed by the applicant under RCW 90.03.255 or 90.44.055.

(e) The department may enter into cost-reimbursement agreements provided resources are available and shall use the process established under RCW 43.21A.690 for entering into cost-reimbursement agreements. The department's share of work related to a cost-reimbursement application, such as final certificate approval, must be prioritized within the framework of other water right processing needs and as determined by agency rule.

(f) Each individual applicant is responsible for his or her own appeal costs that may result from a water right decision made by the department under this section. In the event that the department's approval of an application under this section is appealed under chapter 43.21B RCW by a third party, the applicant for the water right in question must reimburse the department for the cost of defending the decision before the pollution control hearings board unless otherwise agreed to by the applicant and the department. If an applicant appeals either an approval or a denial made by the department under this section, the applicant is responsible only for its own appeal costs.

(2) In pursuing a cost-reimbursement project, the department must determine the source of water proposed to be diverted or withdrawn from, including the boundaries of the area that delimits the source. The department must determine if any other water right permit applications are pending from the same source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department finds they are hydraulically connected. The department shall consider technical information submitted by the applicant in making its determinations under this subsection. The department may recover from a cost-reimbursement applicant its own costs in making the same source determination under this subsection.

(3) Upon request of the applicant seeking cost-reimbursement processing, the department may elect to initiate a coordinated cost-reimbursement process. To initiate this process, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that cost-reimbursement processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on a cost-reimbursement basis;

(d) Provide an estimate of how long the cost-reimbursement

process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in the cost-reimbursement process.

(4) The applicant initiating the cost-reimbursement request must pay for the cost of the determination under subsections (2) and (3) of this section and other costs necessary for the initial phase of cost-reimbursement processing. The cost for each applicant for conducting processing under a coordinated cost-reimbursement agreement must be based primarily on the proportionate quantity of water requested by each applicant. The cost may be adjusted if it appears that an application will require a disproportionately greater amount of time and effort to process due to its complexity.

(5)(a) Only the department may approve or deny a water right application processed under this section, and such a final decision remains solely the responsibility and function of the department. The department retains full authority to amend, refuse, or approve any work product provided by any consultant under this section. The department may recover its costs related to: (i) The review of a consultant to ensure that no conflict of interest exists; (ii) the management of consultant contracts and cost-reimbursement agreements; and (iii) the review of work products provided by participating consultants.

(b) For any cost-reimbursement process initiated under subsection (1) of this section, the applicant may, after consulting with the department, select a prequalified consultant listed by the department under subsection (7) of this section or may be assigned such a prequalified consultant by the department.

(c) For any coordinated cost-reimbursement process initiated under subsection (3) of this section, the applicant may, after consulting with the department, select a prequalified consultant listed by the department under subsection (7) of this section or may be assigned a prequalified consultant by the department.

(d) In lieu of having one or more of the work products performed by a prequalified consultant listed under subsection (7) of this section, the department may, at its discretion, recognize specific work completed by an applicant or an applicant's consultant prior to the initiation of cost-reimbursement processing. The department may also, at its discretion, authorize the use of such a consultant to perform a specific scope of the work that would otherwise be assigned to prequalified consultants listed under subsection (7) of this section.

(e) At any point during the cost-reimbursement process, the department may request or accept technical information, data, and analysis from the applicant or the applicant's consultant to support the cost-reimbursement process or the department's decision on the application.

(6) The department is authorized to adopt rules or guidance providing minimum qualifications and standards for any consultant's submission of work products under this section, including standards for submission of technical information, scientific analysis, work product documentation, review for conflict of interest, and report presentation that such a consultant must meet.

(7) The department must provide notice to potential consultants of the opportunity to be considered for inclusion on the list of cost-reimbursement consultants to whom work assignments will be made. The department must competitively select an appropriate number of consultants who are qualified by training and experience to investigate and make recommendations on the disposition of water right applications. The prequalified consultant list must be renewed at least every six years, though the department may add qualified cost-reimbursement consultants to the list at any time. The department must enter a master contract with each consultant selected and thereafter make work assignments based on availability and qualifications.

(8) The department may remove any consultant from the

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

consultant list for poor performance, malfeasance, or excessive complaints from cost-reimbursement participants. The department may interview any cost-reimbursement consultant to determine whether the person is qualified for this work, and must spot-check the work of consultants to ensure that the public is being competently served.

(9) When a prequalified cost-reimbursement consultant from the department's list described in subsection (7) of this section is assigned or selected to investigate an application or set of applications, the consultant must document its findings and recommended disposition in the form of written draft technical reports and preliminary draft reports of examination. Within two weeks of the department receiving draft technical reports and preliminary draft reports of examination, the department shall provide the applicant such documents for review and comment prior to their completion by the consultant. The department shall consider such comments by the applicant prior to the department's issuance of a draft report of examination. The department may modify the preliminary draft reports of examination submitted by the consultant. The department's decision on a permit application is final unless it is appealed to the pollution control hearings board under chapter 43.21B RCW.

(10) If an applicant elects not to participate in a cost-reimbursement process, the application remains on file with the department, retains its priority date, and may be processed under regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW.

NEW SECTION. Sec. 4. A new section is added to chapter 90.03 RCW to read as follows:

The water rights processing account is created in the state treasury. All receipts from the fees collected under sections 5, 7, and 12 of this act must be deposited into the account. Money in the account may be spent only after appropriation. Expenditures from the account may only be used to support the processing of water right applications for a new appropriation, change, transfer, or amendment of a water right as provided in this chapter and chapters 90.42 and 90.44 RCW or for the examination, certification, and renewal of certification of water right examiners as provided in section 7 of this act.

NEW SECTION. Sec. 5. A new section is added to chapter 90.03 RCW to read as follows:

(1) The department may expedite processing of applications within the same source of water on its own volition when there is interest from a sufficient number of applicants or upon receipt of written requests from at least ten percent of the applicants within the same source of water.

(2) If the conditions of subsection (1) of this section have been met and the department determines that the public interest is best served by expediting applications within a water source, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that expedited processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on an expedited basis;

(d) Provide an estimate of how long the expedited process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in the expedited processing of their applications.

(3) In addition to the application fees provided in RCW 90.03.470, the department must recover the full cost of processing all the applications from applicants who elect to participate within the water source through expedited processing fees. The department must calculate an expedited processing fee based primarily on the proportionate quantity of water requested by each applicant and may adjust the fee if it appears that the application will require a disproportionately greater amount of time and effort to process due to its complexity. Any application fees that were paid by the applicant under RCW 90.03.470 must be credited against the applicant's share of the cost of processing applications under the provisions of this section.

(4) The expedited processing fee must be collected by the department prior to the expedited processing of an application. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. An applicant who has stated in writing that he or she wants his or her application processed using the expedited procedures in this section must transmit the processing fee within sixty days of the written request. Failure to do so will result in the applicant not being included in expedited processing for that water source.

(5) If an applicant elects not to participate in expedited processing, the application remains on file with the department, the applicant retains his or her priority date, and the application may be processed through regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW. Such an application may not be processed through expedited processing within twelve months after the department's issuance of decisions on participating applications at the conclusion of expedited processing unless the applicant agrees to pay the full proportionate share that would otherwise have been paid during such processing. Any proceeds collected from an applicant under this delayed entry into expedited processing shall be used to reimburse the other applicants who participated in the previous expedited processing of applications, provided sufficient proceeds remain to fully cover the department's cost of processing the delayed entry application and the department's estimated administrative costs to reimburse the previously expedited applicants.

NEW SECTION. Sec. 6. A new section is added to chapter 90.03 RCW to read as follows:

The department must post notice on its web site and provide additional electronic notice and opportunity for comment to affected federally recognized tribal governments concurrently when providing notice to applicants under RCW 90.03.265 and sections 5 and 12 of this act.

NEW SECTION. Sec. 7. A new section is added to chapter 90.03 RCW to read as follows:

(1) The department shall establish and maintain a list of certified water right examiners. Certified water right examiners on the list are eligible to perform final proof examinations of permitted water uses leading to the issuance of a water right certificate under RCW 90.03.330. The list must be updated annually and must be made available to the public through written and electronic media.

(2) In order to qualify, an individual must be registered in Washington as a professional engineer, professional land surveyor, or registered hydrogeologist, or an individual must demonstrate at

least five years of applicable experience to the department, or be a board member of a water conservancy board. Qualified individuals must also pass a written examination prior to being certified by the department. Such an examination must be administered by either the department or an entity formally approved by the department. Each certified water right examiner must demonstrate knowledge and competency regarding:

- (a) Water law in the state of Washington;
- (b) Measurement of the flow of water through open channels and enclosed pipes;
- (c) Water use and water level reporting;
- (d) Estimation of the capacity of reservoirs and ponds;
- (e) Irrigation crop water requirements;
- (f) Aerial photo interpretation;
- (g) Legal descriptions of land parcels;
- (h) Location of land and water infrastructure through the use of maps and global positioning;
- (i) Proper construction and sealing of well bores; and
- (j) Other topics related to the preparation and certification of water rights in Washington state.

(3) Except as provided in subsection (9) of this section, upon completion of a water appropriation and putting water to beneficial use, in order to receive a final water right certificate, the permit holder must secure the services of a certified water right examiner who has been tested and certified by the department. The examiner shall carry out a final examination of the project to verify its completion and to determine and document for the permit holder and the department the amount of water that has been appropriated for beneficial use, the location of diversion or withdrawal and conveyance facilities, and the actual place of use. The examiner shall take measurements or make estimates of the maximum diversion or withdrawal, the capacity of water storage facilities, the acreage irrigated, the type and number of residences served, the type and number of stock watered, and other information relevant to making a final determination of the amount of water beneficially used. The examiner shall take photographs of the facilities to document the use or uses of water and the photographs must be submitted with the examiner's report to the department. The department shall specify the format and required content of the reports and may provide a form for that purpose.

(4) The department may suspend or revoke a certification based on poor performance, malfeasance, failure to acquire continuing education credits, or excessive complaints from the examiner's customers. The department may require the retesting of an examiner. The department may interview any examiner to determine whether the person is qualified for this work. The department shall spot-check the work of examiners to ensure that the public is being competently served. Any person aggrieved by an order of the department including the granting, denial, revocation, or suspension of a certificate issued by the department under this chapter may appeal pursuant to chapter 43.21B RCW.

(5) The decision regarding whether to issue a final water right certificate is solely the responsibility and function of the department.

(6) The department shall make its final decision under RCW 90.03.330 within sixty days of the date of receipt of the proof of examination from the certified water right examiner, unless otherwise requested by the applicant or returned for correction by the department. The department may return an initial proof of examination for correction within thirty days of the department's receipt of such initial proof from a certified water right examiner. Such proof must be returned to both the certified water right examiner and the applicant. Within thirty days of the department's receipt of such returned proof from the certified water right examiner, the department shall make its final decision under RCW 90.03.330, unless otherwise requested by the applicant.

(7) Each certified water right examiner must complete eight hours annually of qualifying continuing education in the water resources field. The department shall determine and specify the qualifying continuing education and shall inform examiners of the opportunities. The department shall track whether examiners are current in their continuing education and may suspend the certification of an examiner who has not complied with the continuing education requirement.

(8) Each certified water right examiner must be bonded for at least fifty thousand dollars.

(9) The department may waive the requirement to secure the services of a certified water right examiner in situations in which the department has already conducted a final proof of examination or finds it unnecessary for purposes of issuing a certificate of water right.

(10) The department shall establish and collect fees for the examination, certification, and renewal of certification of water right examiners. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. Pursuant to RCW 43.135.055, the department is authorized to set fees for examination, certification, and renewal of certification for water right examiners.

(11) The department may adopt rules appropriate to carry out the purposes of this section.

Sec. 8. RCW 90.14.065 and 1987 c 93 s 1 are each amended to read as follows:

(1)(a) Any person or entity, or successor to such person or entity, having a statement of claim on file with the water rights claims registry ~~((on April 20, 1987,))~~ may submit to the department of ecology for filing ~~((,))~~ an amendment to such a statement of claim if the submitted amendment is based on:

~~((1))~~ (i) An error in estimation of the quantity of the applicant's water claim prescribed in RCW 90.14.051 if the applicant provides reasons for the failure to claim such right in the original claim;

~~((2))~~ (ii) A change in circumstances not foreseeable at the time the original claim was filed, if such change in circumstances relates only to the manner of transportation or diversion of the water and not to the use or quantity of such water; or

~~((3))~~ (iii) The amendment is ministerial in nature.

(b) The department shall accept any such submission and file the same in the registry unless the department by written determination concludes that the requirements of (a)(i), (ii), or (iii) of this subsection ~~((1), (2), or (3) of this section))~~ have not been satisfied.

(2) In addition to subsection (1) of this section, a surface water right claim may be changed or transferred in the same manner as a permit or certificate under RCW 90.03.380, and a water right claim for groundwater may be changed or transferred as provided under RCW 90.03.380 and 90.44.100.

(3) Any person aggrieved by a determination of the department may obtain a review thereof by filing a petition for review with the pollution control hearings board within thirty days of the date of the determination by the department. The provisions of RCW 90.14.081 shall apply to any amendment filed or approved under this section.

Sec. 9. RCW 90.44.100 and 2009 c 183 s 16 are each amended to read as follows:

(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may, without losing the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.

(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public groundwater as the original well or wells; (b) where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).

(4) As used in this section, the "location of the original well or wells" of a water right permit or certificate is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well. The location of the original well or wells of a water right claim filed under chapter 90.14 RCW is the area located within a one-quarter mile radius of the current well or wells.

(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring an amendment of any existing water right to enable the holder of the right to store water governed by the right.

(6) This section does not apply to a water right involved in an approved local water plan created under RCW 90.92.090 or a banked water right under RCW 90.92.070.

Sec. 10. RCW 90.44.100 and 2003 c 329 s 3 are each amended to read as follows:

(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may, without losing the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.

(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be

issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public groundwater as the original well or wells; (b) where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).

(4) As used in this section, the "location of the original well or wells" of a water right permit or certificate is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well. The location of the original well or wells of a water right claim filed under chapter 90.14 RCW is the area located within a one-quarter mile radius of the current well or wells.

(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring an amendment of any existing water right to enable the holder of the right to store water governed by the right.

NEW SECTION. Sec. 11. A new section is added to chapter 90.44 RCW to read as follows:

Applications to appropriate groundwater under a cost-reimbursement agreement must be processed in accordance with RCW 90.03.265 when an applicant requests the assignment of a cost-reimbursement consultant as provided in RCW 43.21A.690.

NEW SECTION. Sec. 12. A new section is added to chapter 90.44 RCW to read as follows:

(1) The department may expedite processing of applications within the same source of water on its own volition when there is interest from a sufficient number of applicants or upon receipt of written requests from at least ten percent of the applicants within the same source of water.

(2) If the conditions of subsection (1) of this section have been met and the department determines that the public interest is best

served by expediting applications within a water source, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that expedited processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on an expedited basis;

(d) Provide an estimate of how long the expedited process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in expedited processing of their applications.

(3) In addition to the application fees provided in RCW 90.03.470, the department must recover the full cost of processing all the applications from applicants who elect to participate within the water source through expedited processing fees. The department must calculate an expedited processing fee based primarily on the proportionate quantity of water requested by each applicant and may adjust the fee if it appears that an application will require a disproportionately greater amount of time and effort to process due to its complexity. Any application fees that were paid by the applicant under RCW 90.03.470 must be credited against the applicant's share of the cost of processing applications under the provisions of this section.

(4) The expedited processing fee must be collected by the department prior to the expedited processing of an application. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. An applicant who has stated in writing that he or she wants his or her application processed using the expedited procedures in this section must transmit the processing fee within sixty days of the written request. Failure to do so will result in the applicant not being included in expedited processing for that water source.

(5) If an applicant elects not to participate in expedited processing, the application remains on file with the department, the applicant retains his or her priority date, and the application may be processed through regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW. Such an application may not be processed through expedited processing within twelve months after the department's issuance of decisions on participating applications at the conclusion of expedited processing unless the applicant agrees to pay the full proportionate share that would otherwise have been paid during such processing. Any proceeds collected from an applicant under this delayed entry into expedited processing shall be used to reimburse the other applicants who participated in the previous expedited processing of applications, provided sufficient proceeds remain to fully cover the department's cost of processing the delayed entry application and the department's estimated administrative costs to reimburse the previously expedited applicants.

NEW SECTION. Sec. 13. A new section is added to chapter 90.03 RCW to read as follows:

Nothing in this act affects or diminishes the processing of water right applications under any other existing authority, including but

not limited to existing authority for the priority processing of applications by the department.

NEW SECTION. Sec. 14. Section 9 of this act expires June 30, 2019.

NEW SECTION. Sec. 15. Section 10 of this act takes effect June 30, 2019.

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. A new section is added to chapter 90.03 RCW to read as follows:

The water rights processing and dam safety account is created in the state treasury. All receipts from the fees collected under RCW 90.03.470 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to support the processing of water right applications and change applications as provided in this chapter and chapters 90.38, 90.42, and 90.44 RCW and the safety inspection of hydraulic works and plans and specifications for such works.

Sec. 18. RCW 90.03.470 and 2005 c 412 s 2 are each amended to read as follows:

The fees specified in this section shall be collected by the department in advance of the requested action.

(1) ~~((For the examination of an application for a permit to appropriate water, a minimum fee of fifty dollars must be remitted with the application.~~

~~— For an amount of water exceeding one half cubic foot per second, the examination fee shall be assessed at the rate of one dollar per one hundredth cubic foot per second. In no case will the examination fee be less than fifty dollars or more than twenty five thousand dollars. No fee is required under this subsection (1) for an application filed by a party to a cost reimbursement agreement made under RCW 90.03.265.))~~ For the examination of an application for a permit to appropriate water or for an application to change, transfer, or amend an existing water right, an examination fee equal to thirty-five dollars for each one-hundredth of a cubic foot per second must be remitted with the application, but in no case may the examination fee be less than one thousand dollars or more than thirty-five thousand dollars.

(2) The following fees apply for the examination of an application to store water~~((a fee of two dollars for each acre foot of storage proposed shall be charged, but a minimum fee of fifty dollars must be remitted with the application. In no case will the examination fee for a storage project be less than fifty dollars or more than twenty five thousand dollars. No fee is required under this subsection (2) for an application filed by a party to a cost reimbursement agreement made under RCW 90.03.265))~~ and for an application to change a storage right:

(a) For storage of less than one hundred acre feet of water, an examination fee of one thousand dollars must be remitted with the application.

(b) For storage of more than one hundred acre feet of water but less than or equal to one thousand acre feet of water, an examination fee of two thousand dollars must be remitted with the application.

(c) For storage of more than one thousand acre feet of water but less than or equal to ten thousand acre feet of water, an examination fee of seven thousand five hundred dollars must be remitted with the application.

(d) For storage of more than ten thousand acre feet of water, an examination fee of fifteen thousand dollars must be remitted with the application.

(3)(a) ~~((For the examination of an application to transfer, change, or amend a water right certificate, permit, or claim as authorized by RCW 90.44.100, 90.44.105, or 90.03.380, a~~

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

~~minimum fee of fifty dollars must be remitted with the application. For an application for change involving an amount of water exceeding one cubic foot per second, the total examination fee shall be assessed at the rate of fifty cents per one hundredth cubic foot per second. For an application for change of a storage water right, the total examination fee shall be assessed at the rate of one dollar for each acre foot of water involved in the change. The fee shall be based on the amount of water subject to change as proposed in the application, not on the total amount of water reflected in the water right certificate, permit, or claim. In no case will the examination fee charged for a change application be less than fifty dollars or more than twelve thousand five hundred dollars.~~

~~—(b)) (i) The fee paid to the department for an application for change filed with a water conservancy board under chapter 90.80 RCW must be one-fifth of the amounts provided in subsections (1) and (2) of this section. A conservancy board may charge its own processing fees in accordance with RCW 90.80.060.~~

~~(ii) The fees in subsections (1) and (2) of this section do not apply to applicants that have entered into a cost-reimbursement agreement with the department under RCW 90.03.265.~~

~~(b) The examination fee for a temporary or seasonal change under RCW 90.03.390 is ((fifty)) two hundred dollars and must be remitted with the application.~~

~~(c) No fee is required under this subsection (3) for:~~

~~(i) An application to process a change relating to donation of a trust water right to the state; or~~

~~(ii) An application to process a change when the department otherwise acquires a trust water right for purposes of improving instream flows or for other public purposes(;~~

~~—(iii) An application filed with a water conservancy board according to chapter 90.80 RCW or for the review of a water conservancy board's record of decision submitted to the department according to chapter 90.80 RCW; or~~

~~—(iv) An application filed by a party to a cost reimbursement agreement made under RCW 90.03.265)).~~

~~(d) For a change, transfer, or amendment involving a single project operating under more than one water right, including related secondary diversion rights, or involving the consolidation of multiple water rights, only one examination fee and one certificate fee are required to be paid.~~

~~(4) ((The fifty dollar minimum fee payable with the application shall be a credit to the total amount whenever the examination fee totals more than fifty dollars under the schedule specified in subsections (1) through (3) of this section and in such case the further fee due shall be the total computed amount, less the amount previously paid. Within five working days from receipt of an application, the department shall notify the applicant by registered mail of any additional fees due under subsections (1) through (3) of this section.)) (a) The fee amounts specified in this section apply to applications received after the effective date of this section and to all applications that have not been acted on by the department by issuance of a report of examination as of the effective date of this section. For pending applications that were filed prior to the effective date of this section, any fees that were paid under a previous fee schedule must be credited to the amounts required by subsections (1), (2), and (3) of this section. When the department is prepared to take action on an application that was filed prior to the effective date of this section, the department shall notify the applicant that additional fees are due and give the applicant sixty days to remit the additional fees. If the applicant fails to remit the additional fees within the time provided, the department shall cancel the application and inform the applicant of the cancellation.~~

~~(b) If the department receives a water right, change, transfer, amendment, or storage application that does not include remittance of the fee amounts required by this section, the department shall~~

~~return the application to the applicant with instructions on the proper fee amount to be remitted. An application does not establish a priority date until the proper fee is remitted.~~

~~(5) The ((fees specified in subsections (1) through (3) of this section do not apply to any filings)) fee for filing an emergency withdrawal authorization((s)) or temporary drought-related water right change((s)) authorized under RCW 43.83B.410 that ((are)) is received by the department while a drought condition order issued under RCW 43.83B.405 is in effect is one hundred dollars.~~

~~(6) For applying for each extension of time for beginning construction work under a permit to appropriate water, for completion of construction work, or for completing application of water to a beneficial use, a fee of two hundred fifty dollars is required. These fees also apply to similar extensions of time requested under a change or transfer authorization.~~

~~(7) For the inspection of any hydraulic works to ((insure)) ensure safety to life and property, a fee based on the actual cost of the inspection, including the expense incident thereto, is required ((except as follows: (a) For any hydraulic works less than ten years old, that the department examined and approved the construction plans and specifications as to its safety when required under RCW 90.03.350, there shall be no fee charged; or (b) for any hydraulic works more than ten years old, but less than twenty years old, that the department examined and approved the construction plans and specifications as to its safety when required under RCW 90.03.350, the fee charged shall not exceed the fee for a significant hazard dam)).~~

~~(8) For the examination of plans and specifications as to safety of controlling works for storage of ten acre feet or more of water, a minimum fee of ((ten)) five hundred dollars, or a fee equal to the actual cost, is required.~~

~~(9) For recording an assignment either of a permit to appropriate water or of an application for such a permit, a fee of ((fifty)) two hundred dollars is required.~~

~~(10) For preparing and issuing all water right certificates, a fee of ((fifty)) two hundred dollars is required.~~

~~(11) For filing and recording a formal protest against granting any application, a fee of fifty dollars is required. No fee is required to submit a comment, by mail or otherwise, regarding an application.~~

~~(12) For filing an application to amend a water right claim filed under chapter 90.14 RCW, a fee of ((fifty)) two hundred dollars is required.~~

~~(13)(a) Each person who holds a water right permit application, a reservoir permit application, or a change, transfer, or amendment application that is pending at any time between the effective date of this section and June 30, 2011, must remit a one-time fee of two hundred dollars to the department to retain an application in good standing. The department shall provide written notice by certified mail to each holder of an application for the fees that are due under this section. The notice must require that the fees be paid within sixty days of the date of receipt, but in no case may payment be due later than June 30, 2011. For ease of administration, the department may distribute the issuance of the notices by geographic area. The surcharge paid under this subsection is a credit against the application fees required in this section.~~

~~(b) Applications not in good standing must be canceled. The department shall issue an order to any holder of an application who fails to pay the fee within the prescribed time. The order must state that the application is canceled unless payment is received within thirty days.~~

~~(c) The department shall advise an applicant and provide an opportunity for an applicant to withdraw their application without further payment of fees if the department determines that the application would not likely be approved. The department shall~~

summarize the basis for its conclusion to the applicant. The department shall further advise that the applicant has the option of providing an amended application that could include storage or other resource management technique that might make it approvable under RCW 90.03.255 or 90.44.055. The department's advice is not subject to appeal. If the applicant decides to retain the application on file and pays the fee required in this subsection, the department shall maintain the application in good standing until it is able to render a final decision on the application. The final decision is subject to appeal to the pollution control hearings board as provided under chapter 43.21B RCW.

(14) An application or request for an action as provided for under this section is incomplete unless accompanied by the fee or the minimum fee. If no fee or an amount less than the minimum fee accompanies an application or other request for an action as provided under this section, the department shall return the application or request to the applicant with advice as to the fee that must be remitted with the application or request for it to be accepted for processing. If additional fees are due, the department shall provide timely notification by certified mail with return receipt requested to the applicant. No action may be taken by the department until the fee is paid in full. Failure to remit fees within sixty days of the department's notification is grounds for rejecting the application or request or canceling the permit. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable.

~~((14))~~ (15) For purposes of calculating fees for groundwater filings, one cubic foot per second shall be regarded as equivalent to four hundred fifty gallons per minute.

~~((15) Eighty percent of the fees collected by the department under this section shall be deposited in the state general fund. Twenty percent of the fees collected by the department under this section shall be deposited in the water rights tracking system account established in RCW 90.14.240.~~

~~(16) Except for the fees relating to the inspection of hydraulic works and the examination of plans and specifications of controlling works provided for in subsections (7) and (8) of this section, nothing in this section is intended to grant authority to the department to amend the fees in this section by adoption of rules or otherwise.)~~

(16) The fees collected by the department under this section must be deposited in the water rights processing and dam safety account created in section 17 of this act.

(17)(a) The fees specified in this section are effective until the department adopts rules that modify them in accordance with section 20 of this act, except that the fees required in subsections (7) and (8) of this section may be modified at any time.

(b) When information has been previously obtained that directly relates to the processing of an application in subsections (1) and (2) of this section, the department must proportionately reduce the fees associated with that application as a result of the reduced workload of the department.

NEW SECTION. Sec. 19. A new section is added to chapter 90.03 RCW to read as follows:

(1) The department must establish by rule a program for the distribution of hardship grant money to assist applicants in the payment of fees required in RCW 90.03.470.

(2) The department shall submit the list of hardship applicants that meet the qualifications established by the department in this section along with the applicant's requested grant amount to the office of financial management for consideration in the governor's budget request.

(3) The department shall also provide the list of hardship applicants that meet the qualifications established by the department in this section along with the applicant's requested grant amount to the legislature by October 1st of each year.

NEW SECTION. Sec. 20. A new section is added to chapter 90.03 RCW to read as follows:

The department may periodically adopt rules to adjust the fees established in RCW 90.03.470. Any subsequent fees adopted by rule supersede those provided in RCW 90.03.470. Before proposing to adopt any changes to the fees, the department shall consult with the policy committees of the legislature that review water resources legislation.

NEW SECTION. Sec. 21. A new section is added to chapter 90.03 RCW to read as follows:

(1) The department shall submit a report to the legislature prior to December 31, 2012, and biennially thereafter until December 31, 2020, on the status of the backlog of applications for water right permits, the effectiveness of processing water right permit applications to a conclusion within twelve months, and the appropriateness of the fee amounts.

(2) This section expires January 1, 2021.

NEW SECTION. Sec. 22. A new section is added to chapter 90.44 RCW to read as follows:

(1) The department may not require withdrawals of groundwater to be metered or measured for wells authorized under the provisions of RCW 90.44.050 constructed prior to the effective date of this section for single or group domestic uses that do not exceed withdrawing five thousand gallons a day.

(2) This section does not apply to wells the department has required to be metered or measured as of the effective date of this section."

Correct the title.
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6267 and ask the House to recede therefrom.

POINT OF ORDER

Senator Schoesler: "Thank you Mr. President. I raise an objection of scope and object of the bill. Mr. President, the bill that passed the Senate dealt with making improvements to how water right applications are processed. Specifically the bill expanded an existing program to process water right applications through cost reimbursement or expedited processing which is triggered at the applicant's request. I have further remarks, I can continue reading or share with you."

REPLY BY THE PRESIDENT

President Owen: "Please share them with us. I assure you we will read them."

POINT OF ORDER

Senator Schoesler: "Would you like me to read them all or deliver them to the rostrum?"

REPLY BY THE PRESIDENT

President Owen: "No, bring them up."

MOTION

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

On motion of Senator Eide, further consideration of Engrossed Second Substitute Senate Bill No. 6267 was deferred and the bill held its place on the calendar.

MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6832 with the following amendment(s): 6832-S AMH ELCS H5346.2 Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that, based upon the work of the child welfare transformation design committee established pursuant to 2SHB 2106 during the 2009 legislative session, several narrowly based amendments to that legislation need to be made, mainly for clarifying purposes. The legislature further finds that two deadlines need to be extended by six months, the first to allow the department of social and health services additional time to complete the conversion of its contracts to performance-based contracts and the second to allow the department additional time to gradually transfer existing cases to supervising agencies in the demonstration sites. The legislature finds that the addition of a foster youth on the child welfare transformation design committee will greatly assist the committee in its work.

The legislature recognizes that clarifying language regarding Indian tribes should be added regarding the government-to-government relationship the tribes have with the state. The legislature further recognizes that language is needed regarding the department's ability to receive federal funding based upon the recommendations made by the child welfare transformation design committee.

Sec. 2. RCW 74.13.368 and 2009 c 520 s 8 are each amended to read as follows:

(1)(a) The child welfare transformation design committee is established, with members as provided in this subsection.

(i) The governor or the governor's designee;

(ii) Four private agencies that, as of May 18, 2009, provide child welfare services to children and families referred to them by the department. Two agencies must be headquartered in western Washington and two must be headquartered in eastern Washington. Two agencies must have an annual budget of at least one million state-contracted dollars and two must have an annual budget of less than one million state-contracted dollars;

(iii) The assistant secretary of the children's administration in the department;

(iv) Two regional administrators in the children's administration selected by the assistant secretary, one from one of the department's administrative regions one or two, and one from one of the department's administrative regions three, four, five, or six;

(v) The administrator for the division of licensed resources in the children's administration;

(vi) Two nationally recognized experts in performance-based contracts;

(vii) The attorney general or the attorney general's designee;

(viii) A representative of the collective bargaining unit that represents the largest number of employees in the children's administration;

(ix) A representative from the office of the family and children's ombudsman;

(x) Four representatives from the Indian policy advisory committee convened by the department's office of Indian policy and support services;

(xi) Two currently elected or former superior court judges with significant experience in dependency matters, selected by the superior court judge's association;

(xii) One representative from partners for our children affiliated with the University of Washington school of social work;

(xiii) A member of the Washington state racial disproportionality advisory committee;

(xiv) A foster parent; (~~and~~)

(xv) A youth currently in or a recent alumnus of the Washington state foster care system, to be designated by the cochairs of the committee; and

~~(xvi)~~ (xvi) A parent representative who has had personal experience with the dependency system.

(b) The president of the senate and the speaker of the house of representatives shall jointly appoint the members under (a)(ii), (xiv), and (~~(xv)~~) (xvi) of this subsection.

(c) The representative from partners for our children shall convene the initial meeting of the committee no later than June 15, 2009.

(d) The cochairs of the committee shall be the assistant secretary for the children's administration and another member selected by a majority vote of those members present at the initial meeting.

(2) The committee shall establish a transition plan containing recommendations to the legislature and the governor consistent with this section for the provision of child welfare services by supervising agencies pursuant to RCW 74.13.360.

(3) The plan shall include the following:

(a) A model or framework for performance-based contracts to be used by the department that clearly defines:

(i) The target population;

(ii) The referral and exit criteria for the services;

(iii) The child welfare services including the use of evidence-based services and practices to be provided by contractors;

(iv) The roles and responsibilities of public and private agency workers in key case decisions;

(v) Contract performance and outcomes, including those related to eliminating racial disparities in child outcomes;

(vi) That supervising agencies will provide culturally competent service;

(vii) How to measure whether each contractor has met the goals listed in RCW 74.13.360(5); and

(viii) Incentives to meet performance outcomes;

(b) A method by which the department will substantially reduce its current number of contracts for child welfare services;

(c) A method or methods by which clients will access community-based services, how private supervising agencies will engage other services or form local service networks, develop subcontracts, and share information and supervision of children;

(d) Methods to address the effects of racial disproportionality, as identified in the 2008 Racial Disproportionality Advisory Committee Report published by the Washington state institute for public policy in June 2008;

(e) Methods for inclusion of the principles and requirements of the centennial accord executed in November 2001, executed between the state of Washington and federally recognized tribes in Washington state;

(f) Methods for assuring performance-based contracts adhere to the letter and intent of the federal Indian child welfare act;

(g) Contract monitoring and evaluation procedures that will ensure that children and families are receiving timely and quality services and that contract terms are being implemented;

(h) A method or methods by which to ensure that the children's administration has sufficiently trained and experienced staff to monitor and manage performance-based contracts;

(i) A process by which to expand the capacity of supervising and other private agencies to meet the service needs of children and families in a performance-based contractual arrangement;

(j) A method or methods by which supervising and other private agencies can expand services in underserved areas of the state;

(k) The appropriate amounts and procedures for the reimbursement of supervising agencies given the proposed services restructuring;

(l) A method by which to access and enhance existing data systems to include contract performance information;

(m) A financing arrangement for the contracts that examines:

(i) The use of case rates or performance-based fee-for-service contracts that include incentive payments or payment schedules that link reimbursement to outcomes; and

(ii) Ways to reduce a contractor's financial risk that could jeopardize the solvency of the contractor, including consideration of the use of a risk-reward corridor that limits risk of loss and potential profits or the establishment of a statewide risk pool;

(n) A description of how the transition will impact the state's ability to obtain federal funding and examine options to further maximize federal funding opportunities and increased flexibility;

(o) A review of whether current administrative staffing levels in the regions should be continued when the majority of child welfare services are being provided by supervising agencies;

(p) A description of the costs of the transition, the initial start-up costs and the mechanisms to periodically assess the overall adequacy of funds and the fiscal impact of the changes, and the feasibility of the plan and the impact of the plan on department employees during the transition; and

(q) Identification of any statutory and regulatory revisions necessary to accomplish the transition.

(4)(a) The committee, with the assistance of the department, shall select two demonstration sites within which to implement chapter 520, Laws of 2009. One site must be located on the eastern side of the state. The other site must be located on the western side of the state. Neither site must be wholly located in any of the department's administrative regions.

(b) The committee shall develop two sets of performance outcomes to be included in the performance-based contracts the department enters into with supervising agencies. The first set of outcomes shall be used for those cases transferred to a supervising agency over time. The second set of outcomes shall be used for new entrants to the child welfare system.

(c) The committee shall also identify methods for ensuring that comparison of performance between supervising agencies and the existing service delivery system takes into account the variation in the characteristics of the populations being served as well as historical trends in outcomes for those populations.

(5) The committee shall determine the appropriate size of the child and family populations to be provided services under performance-based contracts with supervising agencies. The committee shall also identify the time frame within which cases will be transferred to supervising agencies. The performance-based contracts entered into with supervising agencies shall encompass the provision of child welfare services to enough children and families in each demonstration site to allow for the assessment of whether there are meaningful differences, to be defined by the committee, between the outcomes achieved in the demonstration sites and the comparison sites or populations. To ensure adequate statistical power to assess these differences, the populations served shall be large enough to provide a probability greater than seventy percent that meaningful difference will be detected and a ninety-five percent probability that observed differences are not due to chance alone.

(6) The committee shall also prepare as part of the plan a recommendation as to how to implement chapter 520, Laws of 2009

so that full implementation of chapter 520, Laws of 2009 is achieved no later than ~~(June)~~ December 30, 2012.

(7) The committee shall prepare the plan to manage the delivery of child welfare services in a manner that achieves coordination of the services and programs that deliver primary prevention services.

(8) Beginning June 30, 2009, the committee shall report quarterly to the governor and the legislative children's oversight committee established in RCW 44.04.220. From June 30, 2012, until January 1, 2015, the committee need only report twice a year. The committee shall report on its progress in meeting its duties under subsections (2) and (3) of this section and on any other matters the committee or the legislative children's oversight committee or the governor deems appropriate. The portion of the plan required in subsection (6) of this section shall be due to the legislative children's oversight committee on or before June 1, 2010. The reports shall be in written form.

(9) The committee, by majority vote, may establish advisory committees as it deems necessary.

(10) All state executive branch agencies and the agencies with whom the department contracts for child welfare services shall cooperate with the committee and provide timely information as the chair or cochair may request. Cooperation by the children's administration must include developing and scheduling training for supervising agencies to access data and information necessary to implement and monitor the contracts.

(11) It is expected that the administrative costs for the committee will be supported through private funds.

(12) Staff support for the committee shall be provided jointly by partners for our children and legislative staff.

(13) The committee is subject to chapters 42.30 (open public meetings act) and 42.52 (ethics in public service) RCW.

(14) This section expires July 1, 2015.

Sec. 3. RCW 74.13.020 and 2009 c 520 s 2 and 2009 c 235 s 3 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Case management" means the management of services delivered to children and families in the child welfare system, including permanency services, caseworker-child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means a person less than eighteen years of age.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Committee" means the child welfare transformation design committee.

(6) "Department" means the department of social and health services.

(7) "Measurable effects" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.

(8) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

(9) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

(10) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

(11) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

(12) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or ~~((am))~~ licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services, as defined in this section.

Sec. 4. RCW 74.13.360 and 2009 c 520 s 3 are each amended to read as follows:

(1) No later than ~~((January))~~ July 1, 2011, the department shall convert its current contracts with providers of child welfare services into performance-based contracts. In accomplishing this conversion, the department shall decrease the total number of contracts it uses to purchase child welfare services from providers. The conversion of contracts for the provision of child welfare services to performance-based contracts must be done in a manner that does not adversely affect the state's ability to continue to obtain federal funding for child welfare related functions currently performed by the state and with consideration of options to further maximize federal funding opportunities and increase flexibility in the use of such funds, including use for preventive and in-home child welfare services.

(2) No later than ~~((July 1))~~ December 30, 2012:

(a) In the demonstration sites selected under RCW 74.13.368(4)(a), child welfare services shall be provided by supervising agencies with whom the department has entered into performance-based contracts. Supervising agencies may enter into subcontracts with other licensed agencies; and

(b) Except as provided in subsection (4) of this section, and notwithstanding any law to the contrary, the department may not directly provide child welfare services to families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a).

(3) No later than ~~((July 1))~~ December 30, 2012, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a), the department is responsible for only the following:

(a) Monitoring the quality of services for which the department contracts under this chapter;

(b) Ensuring that the services are provided in accordance with federal law and the laws of this state, including the Indian child welfare act;

(c) Providing child protection functions and services, including intake and investigation of allegations of child abuse or neglect, emergency shelter care functions under RCW 13.34.050, and referrals to appropriate providers; and

(d) Issuing licenses pursuant to chapter 74.15 RCW.

(4) No later than ~~((July 1))~~ December 30, 2012, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a), the department may provide child welfare services only:

(a) For the limited purpose of establishing a control or comparison group as deemed necessary by the child welfare transformation design committee, with input from the Washington state institute for public policy, to implement the demonstration sites selected and defined pursuant to RCW 74.13.368(4)(a) in which the performance in achieving measurable outcomes will be compared and evaluated pursuant to RCW 74.13.370; or

(b) In an emergency or as a provider of last resort. The department shall adopt rules describing the circumstances under which the department may provide those services. For purposes of this section, "provider of last resort" means the department is unable to contract with a private agency to provide child welfare services in a particular geographic area or, after entering into a contract with a private agency, either the contractor or the department terminates the contract.

(5) For purposes of this chapter, on and after September 1, 2010, performance-based contracts shall be structured to hold the supervising agencies accountable for achieving the following goals in order of importance: Child safety; child permanency, including reunification; and child well-being.

(6) A federally recognized tribe located in this state may enter into a performance-based contract with the department to provide child welfare services to Indian children whether or not they reside on a reservation. Nothing in this section prohibits a federally recognized Indian tribe located in this state from providing child welfare services to its members or other Indian children pursuant to existing tribal law, regulation, or custom, or from directly entering into agreements for the provision of such services with the department, if the department continues to otherwise provide such services, or with federal agencies.

Sec. 5. RCW 74.13.364 and 2009 c 520 s 5 are each amended to read as follows:

Children whose cases are managed by a supervising agency as defined in RCW 74.13.020 remain under the care and placement authority of the state. The child welfare transformation design committee, in selecting demonstration sites for the provision of child welfare services under RCW 74.13.368(4), shall maintain the placement and care authority of the state over children receiving child welfare services at a level that does not adversely affect the state's ability to continue to obtain federal funding for child welfare related functions currently performed by the state and with consideration of options to further maximize federal funding

opportunities and increase flexibility in the use of such funds, including use for preventive and in-home child welfare services.

Sec. 6. RCW 74.13.366 and 2009 c 520 s 6 are each amended to read as follows:

~~((Performance based contracts with private nonprofit entities who otherwise meet the definition of supervising agency shall receive primary preference. This section does not apply to Indian tribes.))~~ For the purposes of the provision of child welfare services by supervising agencies under this act, the department shall give primary preference for performance-based contracts to private nonprofit entities, including federally recognized Indian tribes located in this state, who otherwise meet the definition of supervising agency under RCW 74.13.020. In any continuation or expansion of delivery of child welfare services purchased through the use of performance-based contracts under the provisions of RCW 74.13.372, when all other elements of the bids are equal, private nonprofit entities, federally recognized Indian tribes located in this state, and state employees shall receive primary preference over private for profit entities."

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 Substitute Senate Bill No. 6832.

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. 6832.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6832 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6832, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6832, 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 Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6832, 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, 2010

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. 3076 and asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 3076.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 3076.

The motion by Senator Hargrove carried and the Senate receded from its position in the Senate amendment(s) to Second Substitute House Bill No. 3076 by voice vote.

MOTION

On motion of Senator Hargrove, the rules were suspended and Second Substitute House Bill No. 3076 was returned to second reading for the purposes of amendment.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 3076, by House Committee on Ways & Means (originally sponsored by Representatives Dickerson and Kenney)

Concerning the involuntary treatment act.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The Washington institute for public policy shall, in collaboration with the department of social and health services and other applicable entities, undertake a search for a validated mental health assessment tool or combination of tools to be used by designated mental health professionals when undertaking assessments of individuals for detention, commitment, and revocation under the involuntary treatment act pursuant to chapter 71.05 RCW.

(2) This section expires June 30, 2011.

Sec. 2. RCW 71.05.212 and 1999 c 214 s 5 are each amended to read as follows:

~~(1)~~ Whenever a ~~(county)~~ designated mental health professional or professional person is conducting an evaluation under this chapter, consideration shall include all reasonably available information from credible witnesses and records regarding:

~~((1))~~ (a) Prior recommendations for evaluation of the need for civil commitments when the recommendation is made pursuant to an evaluation conducted under chapter 10.77 RCW;

~~((2))~~ (b) Historical behavior, including history of one or more violent acts;

~~((3))~~ (c) Prior determinations of incompetency or insanity under chapter 10.77 RCW; and

~~((4))~~ (d) Prior commitments under this chapter.

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

(2) Credible witnesses may include family members, landlords, neighbors, or others with significant contact and history of involvement with the person. If the designated mental health professional relies upon information from a credible witness in reaching his or her decision to detain the individual, then he or she must provide contact information for any such witness to the prosecutor. The designated mental health professional or prosecutor shall provide notice of the date, time, and location of the probable cause hearing to such a witness.

(3) Symptoms and behavior of the respondent which standing alone would not justify civil commitment may support a finding of grave disability or likelihood of serious harm when:

(a) Such symptoms or behavior are closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration, or one or more violent acts;

(b) These symptoms or behavior represent a marked and concerning change in the baseline behavior of the respondent; and

(c) Without treatment, the continued deterioration of the respondent is probable.

~~(In addition,)~~ (4) When conducting an evaluation for offenders identified under RCW 72.09.370, the ((county)) designated mental health professional or professional person shall consider an offender's history of judicially required or administratively ordered antipsychotic medication while in confinement.

Sec. 3. RCW 71.05.245 and 1999 c 13 s 6 are each amended to read as follows:

(1) In making a determination of whether a person is gravely disabled or presents a likelihood of serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320, the court must consider the symptoms and behavior of the respondent in light of all available evidence concerning the respondent's historical behavior.

(2) Symptoms or behavior which standing alone would not justify civil commitment may support a finding of grave disability or likelihood of serious harm when: (a) Such symptoms or behavior are closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration, or one or more violent acts; (b) these symptoms or behavior represent a marked and concerning change in the baseline behavior of the respondent; and (c) without treatment, the continued deterioration of the respondent is probable.

(3) In making a determination of whether there is a likelihood of serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320, the court shall give great weight to any evidence before the court regarding whether the person has: ~~((+))~~ (a) A recent history of one or more violent acts; or ~~((=))~~ (b) a recent history of one or more commitments under this chapter or its equivalent provisions under the laws of another state which were based on a likelihood of serious harm. The existence of prior violent acts or commitments under this chapter or its equivalent shall not be the sole basis for determining whether a person presents a likelihood of serious harm.

For the purposes of this ~~((section))~~ subsection "recent" refers to the period of time not exceeding three years prior to the current hearing.

NEW SECTION. Sec. 4. A new section is added to chapter 71.05 RCW to read as follows:

(1) Whenever a person who is the subject of an involuntary commitment order under this chapter is discharged from an evaluation and treatment facility or state hospital, the evaluation and treatment facility or state hospital shall provide notice of the person's discharge to the designated mental health professional office responsible for the initial commitment and the designated mental health professional office that serves the county in which the person is expected to reside. The evaluation and treatment facility or state

hospital must also provide these offices with a copy of any less restrictive order or conditional release order entered in conjunction with the discharge of the person, unless the evaluation and treatment facility or state hospital has entered into a memorandum of understanding obligating another entity to provide these documents.

(2) The notice and documents referred to in subsection (1) of this section shall be provided as soon as possible and no later than one business day following the discharge of the person. Notice is not required under this section if the discharge is for the purpose of transferring the person for continued detention and treatment under this chapter at another treatment facility.

(3) The department shall maintain and make available an updated list of contact information for designated mental health professional offices around the state.

NEW SECTION. Sec. 5. Sections 2 and 3 of this act take effect January 1, 2012.

NEW SECTION. Sec. 6. A new section is added to chapter 9.94A RCW to read as follows:

(1) Before imposing any legal financial obligations upon a defendant who suffers from a mental health condition, other than restitution or the victim penalty assessment under RCW 7.68.035, a judge must first determine that the defendant, under the terms of this section, has the means to pay such additional sums.

(2) For the purposes of this section, a defendant suffers from a mental health condition when the defendant has been diagnosed with a mental disorder that prevents the defendant from participating in gainful employment, as evidenced by a determination of mental disability as the basis for the defendant's enrollment in a public assistance program, a record of involuntary hospitalization, or by competent expert evaluation.

NEW SECTION. Sec. 7. If specific funding for the purposes of sections 1, 2, and 3 of this act, referencing the specific section of this act by section number and by bill or chapter number, is not provided by June 30, 2010, in the omnibus appropriations act, each section not referenced is null and void."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Brandland to Second Substitute House Bill No. 3076.

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

MOTION

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

On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "amending RCW 71.05.212 and 71.05.245; adding a new section to chapter 71.05 RCW; adding a new section to chapter 9.94A RCW; creating new sections; providing an effective date; and providing an expiration date."

MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 3076 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 3076 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 3076 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 3076 as amended by the Senate, having received the constitutional

1597-S2	
Second Reading.....	69
Third Reading Final Passage.....	69
1761-S2	
Messages.....	3
1880	
Messages.....	3
2179-S	
Messages.....	3
2196-S	
Second Reading.....	68
Third Reading Final Passage.....	69
2519	
Messages.....	68
2525-S	
Messages.....	68
2534-S	
Messages.....	3
2567	
Committee Report.....	2
2625	
Messages.....	3
2680-S	
Messages.....	3
2681	
Messages.....	3
2717-S	
Messages.....	3
2742-S2	
Messages.....	68
2758-S	
Second Reading.....	69
Third Reading Final Passage.....	69
2782-S2	
Committee Report.....	2
2867-S2	
Messages.....	3
2925-S	
Messages.....	68
2935-S	
Messages.....	68
2939-S	
Messages.....	3
2961-S2	
Messages.....	3
2969	
Committee Report.....	2

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 7:56 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Wednesday, March 10, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

3016-S	
Messages.....	3
3026-S2	
Messages.....	3
3030	
Messages.....	68
3046-S	
Messages.....	68
3076-S2	
Messages.....	113
Other Action.....	114
Other Action.....	113
Second Reading.....	113
Third Reading Final Passage.....	114
3105-S	
Messages.....	3
3124-S	
Messages.....	63
Other Action.....	63
Other Action.....	63
Second Reading.....	63
Third Reading Final Passage.....	63
3178-S	
Committee Report.....	2
3179-S	
Messages.....	68
4220-S	
Messages.....	3
5295-S	
President Signed.....	62
5529-S	
President Signed.....	62
5704-S	
President Signed.....	62
5742-S	
President Signed.....	62
6192-S	
President Signed.....	62
6202-S	
President Signed.....	62
6206	
President Signed.....	62
6207-S	
President Signed.....	62
6214-S	
President Signed.....	62
6243	

FIFTY EIGHTH DAY, MARCH 9, 2010

2010 REGULAR SESSION

Messages	21	Messages	6
6248-S		Other Action	6
President Signed	62	6508-S	
6267-S2		Messages	38
Messages	102	6518	
6308		Committee Report	1
Final Passage as amended by House	46	6548-S	
Messages	45	Messages	5
Other Action	46	6557-S	
6332-S		President Signed	62
President Signed	62	6561-S2	
6340-S		Final Passage as amended by House	26
President Signed	62	Messages	22
6342-S		Other Action	25
President Signed	62	6582-S	
6343-S		Final Passage as amended by House	67
President Signed	62	Messages	64
6344-S		Other Action	67
Final Passage as amended by House	44	6590-S	
Messages	42	President Signed	62
Other Action	44	6593	
6349-S		Final Passage as amended by House	45
Final Passage as amended by House	8	Messages	44
Messages	6	Other Action	45
Other Action	8	6604-S	
6350-S		Messages	26
Messages	21	6609-S2	
6364		Messages	68
Committee Report	1	6610	
6373-S		Messages	33
President Signed	62	6611-S	
6381-S		Messages	46
Final Passage as amended by House	100	6614-S	
Messages	69	Messages	68
Other Action	100	6639-S	
6392-S		Final Passage as amended by House	56
President Signed	62	Messages	47
6401		Other Action	56
Final Passage as amended by House	68	6647-S	
Messages	67	Final Passage as amended by House	67
Other Action	67	Messages	67
6403-S		Other Action	67
Final Passage as amended by House	11	6667-S2	
Messages	8	Final Passage as amended by House	102
Other Action	10	Messages	100
6459-S		Other Action	102
President Signed	62	6673-S	
6468-S		President Signed	63
Final Passage as amended by House	11	6675	
Messages	11	Committee Report	1
Other Action	11	6679-S2	
6470-S		Final Passage as amended by House	57
Final Passage as amended by House	11	Messages	56
Messages	11	Other Action	57
Other Action	11	6688-S	
6476-S		Final Passage as amended by House	58
Final Passage as amended by House	21	Messages	57
Messages	12	Other Action	57
Other Action	20	6692-S	
6481		Final Passage as amended by House	59
Final Passage as amended by House	22	Messages	58
Messages	21	Other Action	59
Other Action	22	6702-S2	
6485-S		Final Passage as amended by House	61
Final Passage as amended by House	6	Messages	59

Other Action.....	61	Final Passage as amended by House	113
6712		Messages.....	109
Committee Report	1	Other Action	112
6724-S		6855	
President Signed.....	63	Committee Report.....	1
6726-S		6872	
Final Passage as amended by House	62	Committee Report.....	2
Messages	61	6881	
Other Action.....	62	Committee Report.....	2
6730-S		8715	
Messages	36	Adopted.....	4
6759-S		Introduced	3
Messages	29	9260 Ted Sturdevant	
6764		Confirmed	4
President Signed.....	63	9272 Patricia Lantz	
6789		Confirmed	5
Committee Report	1	PRESIDENT OF THE SENATE	
6804		Intro. Special Guest, Women in Sports	4
Messages	37	Reply by the President	42, 109
6826		Ruling by the President SSB 6508	100
Final Passage as amended by House	64	WASHINGTON STATE SENATE	
Messages	64	Parliamentary Inquiry, Senator Fairley	42
Other Action.....	64	Point of Order, Senator Brandland.....	42
6832-S		Point of Order, Senator Schoesler.....	109