

**THIRTIETH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Wednesday, May 25, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Nelson and Shin.

The Sergeant at Arms Color Guard consisting of Legislative Assistants Karen Wickstrom and Judy Rogers-LaVigne, presented the Colors. Senator Morton offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

May 24, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1087.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 5962 by Senators Honeyford, Haugen, Schoesler and Hatfield

AN ACT Relating to reforming water resource management through streamlining the administration of water rights and providing for funding; amending RCW 90.14.130, 90.14.140, 90.14.200, and 90.03.255; reenacting and amending RCW 90.14.140; adding new sections to chapter 90.03 RCW; adding new sections to chapter 90.42 RCW; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Environment, Water & Energy.

SB 5963 by Senators Baxter, Stevens, Morton, Chase and Shin

AN ACT Relating to state agencies' lobbying activities; amending RCW 42.17A.635 and 42.17A.750; creating new sections; prescribing penalties; and providing an effective date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5964 by Senators Holmquist Newbry, Hatfield, Honeyford, Kastama, Delvin, Schoesler, Hewitt, Hobbs and Sheldon

AN ACT Relating to narrowing the requirement that utilities purchase electricity, renewable energy credits, or electric generating facilities that are not needed to serve their customers' loads; amending RCW 19.285.040; and creating a new section.

Referred to Committee on Environment, Water & Energy.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

SUPPLEMENTAL INTRODUCTION AND FIRST READING

SJM 8011 by Senators Swecker, Morton, Ranker, Haugen, Rockefeller, Pridemore and White

Regarding runoff from dams on the Snake and Columbia rivers and the impact on the state's fish resources.

SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

2ESHB 1087 by House Committee on Ways & Means (originally sponsored by Representatives Hunter, Alexander and Darneille)

AN ACT Relating to fiscal matters; amending RCW 15.76.115, 19.30.030, 28B.15.068, 28B.116.050, 28C.04.535, 36.22.175, 40.14.025, 40.14.027, 41.06.022, 41.50.110, 41.60.050, 41.80.010, 41.80.020, 43.07.129, 43.08.190, 43.09.475, 43.19.501, 43.20A.725, 43.79.201, 43.79.465, 43.88.150, 43.101.200, 43.135.045, 43.185.050, 43.185C.190, 43.336.020, 46.66.080, 66.08.170, 66.08.190, 66.08.235, 67.70.260, 70.93.180, 70.105D.070, 74.13.621, 79.64.040, 79.105.150, 80.36.430, 82.08.160, 82.14.310, 82.14.320, 82.14.330, 82.14.390, 82.14.500, 82.45.060, 86.26.007, and 90.71.370; reenacting and amending RCW 41.06.070, 43.79.480, 43.155.050, 43.185A.030, and 43.330.250; amending 2011 c 5 ss 106, 107, 108, 113, 114, 115, 117, 118, 119, 120, 121, 122, 125, 126, 127, 128, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 301, 302, 303, 304, 305, 306, 307, 401, 402, 501, 502, 503, 504, 505, 507, 508, 607, 608, 609, 612, 613, 614, 615, 616, 617, 703, and 801 (uncodified); amending 2010 2nd sp.s. c 1 ss 101, 102, 106, 107, 108, 116, 305, and 306 (uncodified); amending 2010 1st sp.s. c 37 ss 201, 504, 509, 510, 514, 515, 516, 517, 612, 701, 702, 703, 709, 710, and 801 (uncodified); amending 2009 c 564 ss 719, 802, and 803 (uncodified); adding new sections to 2009 c 564 (uncodified); adding new sections to 2011 c 367 (uncodified); creating new sections; repealing 2010 1st sp.s. c 37 s 802 (uncodified); making

appropriations; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

#### MOTION

On motion of Senator Eide and without objections, Senate Joint Memorial No. 8011 and Second Engrossed Substitute House Bill No. 1087 were placed on the second reading calendar under suspension of the rules.

#### MOTION

At 10:12 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:59 a.m. by President Owen.

#### MOTION

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

#### MESSAGE FROM THE HOUSE

May 24, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5891 with the following amendment(s): 5891-S.E AMH PROB SILV 162

On page 3, beginning on line 1, strike all of section 2 and insert the following:

"Sec. 2. RCW 9.94A.501 and 2010 c 267 s 10 and 2010 c 224 s 3 are each reenacted and amended to read as follows:

(1) The department shall supervise ~~((every offender convicted of a misdemeanor or gross misdemeanor offense who is))~~ the following offenders who are 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)):~~

(a) 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) Violation of RCW 9A.44.132(2) (failure to register); and

(b) Offenders who have:

(i) A current conviction for a repetitive domestic violence offense where domestic violence has been plead and proven after August 1, 2011; and

(ii) A prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence has been plead and proven after August 1, 2011.

(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 pursuant to RCW 9.94A.701 or 9.94A.702 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)) and was sentenced to a term of community custody pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

(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) Has a current conviction for violating RCW 9A.44.132(1) (failure to register) and was sentenced to a term of community custody pursuant to RCW 9.94A.701;

(e) Has a current conviction for a domestic violence felony offense where domestic violence has been plead and proven after August 1, 2011, and a prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence has been plead and proven after August 1, 2011;

(f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or 9.94A.670; or

~~((f))~~ (g) 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 or section 3 of this act.

(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 or section 3 of this act." and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5891.

Senator Hargrove spoke in favor of the motion.

#### MOTION

On motion of Senator Ericksen, Senator Benton was excused.

#### MOTION

On motion of Senator Hobbs, Senator Hatfield was excused.

#### MOTION

On motion of Senator White, Senators Nelson and Shin were excused.

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 Substitute Senate Bill No. 5891.

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5891 by voice vote.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5891, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5891, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 26; Nays, 20; Absent, 0; Excused, 3.

Voting yea: Senators Brown, Carrell, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Murray, Prentice, Ranker, Regala, Rockefeller, Schoesler, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Becker, Chase, Conway, Delvin, Ericksen, Fain, Hill, Holmquist Newbry, Honeyford, Kilmer, King, Litzow, Morton, Parlette, Pflug, Pridemore, Roach and Sheldon

Excused: Senators Benton, Nelson and Shin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5891, 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

May 24, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5942 with the following amendment(s): 5942-S.E AMH ORMSH2907.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. FINDINGS.** The legislature finds that it is in the public interest to seek revenue opportunities through leasing and modernizing the state's liquor warehousing and distribution facilities and related operations. The legislature finds that it is also in the public interest to conduct a competitive process to select private sector lessee for this purpose. Nothing in this act is intended to affect the private distribution or sale of beer or wine, the operation by the state of state liquor stores, or the authority of the Washington state liquor control board to oversee, manage, and enforce state liquor sales.

**NEW SECTION. Sec. 2. COMPETITIVE PROCUREMENT.** (1) Within one hundred twenty days after the effective date of this section, the office of financial management, in consultation with the Washington state liquor control board and the liquor distribution advisory committee, must establish and conduct a competitive process for the selection of a private sector entity to lease and modernize the state's liquor warehousing and distribution facilities and related operations. The competitive process must assume that the Washington state liquor control board retains its existing exclusive retail spirits sales business, be designed to encourage the participation of private sector entities with previous wholesale distribution experience with a public partner excluding licensees engaged in the manufacture of liquor or the retail sale of liquor in the state, and be designed to encourage competition among such entities.

(2)(a) To implement the competitive process required under subsection (1) of this section, the office of financial management

must, after consultation with the Washington state liquor control board and the liquor distribution advisory committee, request proposals for:

(i) The lease of or other contract for the entire state liquor warehousing and distribution business, including the facilities, operations, and other assets associated with the warehousing of liquor and the distribution of liquor; and

(ii) The exclusive right to warehouse spirits and to distribute spirits in the state.

(b) The request for proposals must include without limitation:

(i) A requirement that proposals demonstrate to the satisfaction of the office of financial management relevant previous experience as well as the financial capacity to perform obligations under the contract;

(ii) A requirement that proposals demonstrate, to the satisfaction of the office of financial management, a net positive financial benefit to the state and local government over the term of the proposed lease or contract taking into account: An initial up-front payment to the state during the 2011-2013 biennium; proposed profit sharing payments to the state; projected business and occupation and liquor tax revenues; and changes to retail profits generated as a result of the lease or contract. The office of financial management, in consultation with the liquor distribution advisory committee and interested stakeholders, must develop a definition and criteria on how to determine "positive financial benefit to the state and local government";

(iii) A requirement that the prevailing proponent deposit into an escrow account, within fifteen business days after the announcement of selection of that proposal and definitive resolution of any appeals to such selection, the full amount of the initial up-front payment offered in the proponent's response to the request for proposals, pending and subject to successful negotiation of a mutually acceptable lease or other contract;

(iv) A requirement that proposals include a quantified commitment to invest in capital improvements to warehousing and distribution facilities and a mechanism to ensure that such investments are timely made, consistent with requirements in a mutually acceptable lease or contract;

(v) A requirement that proposals include a commitment to assume responsibility for the costs associated with the operation of liquor warehousing and distribution;

(vi) A requirement that proposals demonstrate to the satisfaction of the office of financial management a commitment to improved distribution including without limitation logistics and delivery improvements to improve margins, ensure regularity of deliveries to state or contract liquor stores to reduce out-of-stock problems, improve service to stores located in geographically remote areas of the state, expand liquor selection, provide for bottle rather than minimum case purchasing and stocking of state or contract liquor stores, if practicable, and enable electronic funds transfer of payments;

(vii) A requirement that proposals include a commitment to offer employment to the state employees currently in positions relating to the wholesale distribution of liquor and to recognize and bargain with any existing bargaining representative of such employees with respect to terms and conditions of employment;

(viii) A requirement that the variety of brands and types of liquor available to licensees, contract liquor stores, and state liquor stores must be equal to or greater than what is being distributed by the Washington state liquor control board; and

(ix) Measurable standards for the performance of the contract.

(c) Prior to conducting the competitive process outlined in this section, the request for proposals developed by the office of financial management must be reviewed by the house and senate fiscal committees. Opportunity for public comment regarding the

request for proposal must be provided. The review must be completed within fourteen days of the office of financial management providing the request for proposals to the house and senate fiscal committees.

(d) The office of financial management must publicly disclose an analysis of the fiscal impacts to state and local government of each of the offers in the procurement process.

(e) After consultation with the Washington state liquor control board, local government, and the liquor distribution advisory committee, the office of financial management is authorized to recommend to the Washington state liquor control board the proposal that in the determination of the office of financial management best meets the criteria required under this subsection (2), in the best interests of the state. If, in the determination of the office of financial management, there is no proposal that meets the best interest of the state, the office of financial management must notify the Washington state liquor control board to not accept any of the proposals.

(3) Any challenge to or protest of the recommendation of the office of financial management and the acceptance by the liquor control board of the recommended proposal must be filed by a respondent that submitted a proposal with the office of financial management within five days after such recommendation and acceptance. The grounds for such challenge or protest are limited to claims that the recommendation and acceptance were arbitrary and capricious. The office of financial management must, within five days, render its decision on the protest. The respondent that filed the protest may, within five days after such decision, appeal to the superior court of Thurston county by petition setting forth objections to the decision. A copy of the petition on appeal together with a notice that an appeal has been taken must be served upon the secretary of state, the attorney general, the office of financial management, the liquor control board, and the respondent that submitted the recommended and accepted proposal. The court must accord first priority to examining the objections, may hear arguments, and must, within ten days, render its decision. The decision of the superior court is final.

**NEW SECTION. Sec. 3. CONTRACT.** (1) Within sixty days after the recommendation of a proposal under section 2 of this act, the Washington state liquor control board may accept that proposal and enter into a long-term contract with that entity for the lease of the business, facilities, and assets associated with the warehousing and distribution of liquor in the state. The contract must grant the exclusive right to distribute spirits in the state for the period of the contract. The contract must include enforceable performance standards and minimum financial returns to the state. The contract must provide a provision that allows the state to terminate the contract should specific performance standards or financial returns to the state not be realized. The contract must provide for a reasonable termination notification process as well as financial terms of termination should termination of contract take place.

(2) If the state receives an up-front payment of one hundred million dollars or more as a result of accepting a proposal from the procurement process in section 2 of this act, the contract must provide that the private entity place the up-front payment into irrevocable trust with the state being the beneficiary. The contract must provide that the trust be created in a manner that the state may not receive more than one-sixth of the up-front payment placed into the trust in any fiscal year.

(3) The contract must contain provisions that the Washington state liquor control board maintains the exclusive authority to select products and determine which products will be carried in state and contract liquor stores.

(4) The contract must contain provisions that the Washington state liquor control board must set the prices of liquor for sales in state and contract liquor stores as well as sales to licensees.

(5) The contract must contain a provision that any financial deficiencies or losses of the private entity contracting for the warehousing and distribution of liquor in the state must not be compensated for in any way by the state, contract stores, consumers, or licensees.

**NEW SECTION. Sec. 4.** (1) The director of the office of financial management must appoint a liquor distribution advisory committee. The purpose of the committee is to assist and make recommendations to the office of financial management and the Washington state liquor control board regarding the provisions of this act including, but not limited to, setting requirements for the competitive procurement process, selection of a private entity or recommendation that no entity be selected, and creating the terms of a contract with a selected private entity. The advisory committee's recommendations and assistance to the office of financial management and Washington state liquor control board in regards to the provisions of this act are advisory in nature and do not prohibit the office of financial management and Washington state liquor control board from performing their duties under this act as they deem fit.

(2) The liquor distribution advisory committee is composed of the Washington state treasurer or his or her designee, a designee from each of the two largest caucuses of the senate determined by the leaders of each caucus, and a designee from each of the two largest caucuses of the house of representatives determined by the leaders of each caucus.

**NEW SECTION. Sec. 5.** Contracting for services under this chapter is not subject to the processes of RCW 41.06.142 (1), (4), and (5).

**NEW SECTION. Sec. 6. DEFINITIONS.** For the purposes of this chapter, unless the context clearly requires otherwise:

(1) "Liquor" has the same meaning as provided in RCW 66.04.010.

(2) "Spirits" has the same meaning as provided in RCW 66.04.010.

(3) "State liquor stores" includes "stores" and "contract liquor stores" as those terms are defined in RCW 66.04.010.

**Sec. 7.** RCW 66.08.050 and 2005 c 151 s 3 are each amended to read as follows:

The board, subject to the provisions of this title and the rules, shall:

(1) Determine the localities within which state liquor stores shall be established throughout the state, and the number and situation of the stores within each locality;

(2) Appoint in cities and towns and other communities, in which no state liquor store is located, contract liquor stores. In addition, the board may appoint, in its discretion, a manufacturer that also manufactures liquor products other than wine under a license under this title, as a contract liquor store for the purpose of sale of liquor products of its own manufacture on the licensed premises only. Such contract liquor stores shall be authorized to sell liquor under the guidelines provided by law, rule, or contract, and such contract liquor stores shall be subject to such additional rules and regulations consistent with this title as the board may require;

(3) If a contract under section 3 of this act is not then in effect, establish all necessary warehouses for the storing and bottling, diluting and rectifying of stocks of liquors for the purposes of this title;

(4) Provide for the leasing for periods not to exceed ten years of all premises required for the conduct of the business (other than premises subject to a lease or other contract under section 3 of this act); and for remodeling the same, and the procuring of their furnishings, fixtures, and supplies; and for obtaining options of

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

renewal of such leases by the lessee. The terms of such leases in all other respects ~~((shall be))~~ is subject to the direction of the board;

(5) Determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this title;

(6) Execute or cause to be executed, all contracts, papers, and documents in the name of the board, under such regulations as the board may fix;

(7) Pay all customs, duties, excises, charges and obligations whatsoever relating to the business of the board (other than obligations assumed by the lessee through a contract under section 3 of this act);

(8) Require bonds from all employees in the discretion of the board, and to determine the amount of fidelity bond of each such employee;

(9) Perform services for the state lottery commission to such extent, and for such compensation, as may be mutually agreed upon between the board and the commission;

(10) Accept and deposit into the general fund-local account and disburse, subject to appropriation, federal grants or other funds or donations from any source for the purpose of improving public awareness of the health risks associated with alcohol consumption by youth and the abuse of alcohol by adults in Washington state. The board's alcohol awareness program shall cooperate with federal and state agencies, interested organizations, and individuals to effect an active public beverage alcohol awareness program;

(11) Perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this title, and shall have full power to do each and every act necessary to the conduct of its business, including all buying, selling, preparation and approval of forms, and every other function of the business whatsoever, subject only to audit by the state auditor ~~((: PROVIDED, That))~~. However, the board ~~((shall have))~~ has no authority to regulate the content of spoken language on licensed premises where wine and other liquors are served and where there is not a clear and present danger of disorderly conduct being provoked by such language.

**Sec. 8.** RCW 66.08.070 and 1985 c 226 s 2 are each amended to read as follows:

(1) Every order for the purchase of liquor ~~((shall))~~ must be authorized by the board, and no order for liquor ~~((shall be))~~ is valid or binding unless it is so authorized and signed by the board or its authorized designee.

(2) A duplicate of every such order ~~((shall))~~ must be kept on file in the office of the board.

(3) All cancellations of such orders made by the board ~~((shall))~~ must be signed in the same manner and duplicates thereof kept on file in the office of the board. Nothing in this title ~~((shall))~~ may be construed as preventing the board from accepting liquor on consignment.

(4) In the purchase of wine or malt beverages the board ~~((shall))~~ may not require, as a term or condition of purchase, any warranty or affirmation with respect to the relationship of the price charged the board to any price charged any other buyer.

(5) This section does not apply to a contract entered into under section 3 of this act.

**NEW SECTION. Sec. 9.** Sections 1 through 6 of this act constitute a new chapter in Title 66 RCW.

**NEW SECTION. Sec. 10.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately." Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Zarelli moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5942.

Senator Zarelli spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Zarelli that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5942.

The motion by Senator Zarelli carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5942 by voice vote.

#### POINT OF ORDER

Senator Tom: "Mr. President, I am asking that the President determine and announce the number of votes needed for final passage of this bill as I believe the bill will fall under the provisions of Initiative 1053 and requires a two-thirds majority vote on final passage. The bill before the body privatizes the distribution of liquor within the state and part of it requires that any person or business responding to the RFP provide certain specific information. Included in that response must be the following information: Any changes to retail profits generated as a result of the lease or contract. In part, the contract will allow the distribution of liquor into the state liquor stores and it is those stores that will experience the changes in retail profits that the bill contemplates to the extent that the award of the contract results in an increase and deposits of funds into the state general fund. The legislation creates a back-door tax therefore requiring a two-thirds vote on final passage."

Senator Zarelli spoke against the point of order.

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5942 was deferred and the bill held its place on the calendar.

#### MESSAGE FROM THE HOUSE

May 24, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5846 with the following amendment(s): 5846-S AMH WAYS H2898.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 41.05 RCW to read as follows:

From September 1, 2011, through August 31, 2014, the health care authority shall provide an optional subsidy of two hundred fifty dollars per month for health benefit premiums to any member of plan 1 of the teachers' retirement system who:

(1) Is ineligible for medicare;

(2) Has signed an employment contract under RCW 28A.405.210 by May 20, 2011, for the 2011-12 school year and has not previously notified the school district of an intent to retire at the conclusion of the 2010-11 school year;

(3) Applies for retirement under RCW 41.32.480 after May 20, 2011, and before September 1, 2011; and

(4) Receives the first installment of a retirement allowance as provided under RCW 41.32.480 before October 31, 2011."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Eide moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5846 and ask the House to recede therefrom.

The President declared the question before the Senate to be the motion by Senator Eide that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5846 and ask the House to recede therefrom.

The motion by Senator Eide carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5846 and asked the House to recede therefrom by voice vote.

MOTION

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

SECOND READING

SENATE BILL NO. 5860, by Senator Murray

Addressing state government employee compensation. Revised for 1st Substitute: Addressing temporary compensation reductions for state government employees during the 2011-2013 fiscal biennium.

MOTION

On motion of Senator Murray, Substitute Senate Bill No. 5860 was substituted for Senate Bill No. 5860 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Murray moved that the following amendment by Senators Murray and Zarelli be adopted:

On page 18, after line 27, insert the following:

" From July 1, 2011, through June 29, 2013, the rate of monetary compensation for the purposes of this subsection shall not be reduced by any temporary salary reduction."

Senator Murray spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Murray and Zarelli on page 18, after line 27 to Substitute Senate Bill No. 5860.

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

MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute Senate Bill No. 5860 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5860.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5860 and the bill passed the

Senate by the following vote: Yeas, 36; Nays, 10; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Parlette, Pflug, Prentice, Ranker, Regala, Rockefeller, Schoesler, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Carrell, Delvin, Holmquist Newbry, Morton, Pridemore, Roach, Sheldon and Stevens

Excused: Senators Benton, Nelson and Shin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5860, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1548, by House Committee on Ways & Means (originally sponsored by Representatives Hunter, Darneille and Kenney)

Concerning the implementation of long-term care worker requirements regarding background checks and training.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 1548 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1548.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1548 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 12; Absent, 0; Excused, 3.

Voting yea: Senators Baxter, Becker, Brown, Carrell, Delvin, Eide, Ericksen, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Kline, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Chase, Conway, Fain, Hargrove, Harper, Hill, Keiser, Kohl-Welles, Litzow, Ranker and Roach

Excused: Senators Benton, Nelson and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1548, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 2003, by Representatives Pettigrew, Hunter, Ryu and Kenney

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

May 25, 2011

Concerning premium payments for children's health coverage for certain families who are not eligible for federal children's health insurance coverage.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed House Bill No. 2003 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser, Hobbs and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2003.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2003 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Benton, Nelson and Shin

ENGROSSED HOUSE BILL NO. 2003, 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 12:34 p.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 3:30 p.m. by President Owen.

MOTION

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

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2048,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2053.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House has passed:

SUBSTITUTE SENATE BILL NO. 5181.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5181.

MOTION

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

SECOND SUPPLEMENTAL AND FIRST READING OF HOUSE BILLS

ESHB 2053 by House Committee on Transportation (originally sponsored by Representatives Clibborn, Morris, Rolfes, Liias, Reykdal, Billig, Ormsby, Finn, Seaquist and Lytton)

AN ACT Relating to additive transportation funding; amending RCW 46.20.055, 46.20.117, 46.20.200, 46.20.308, 46.17.005, 46.17.100, 46.17.140, 46.17.200, 46.52.130, 46.29.050, and 46.20.293; reenacting and amending RCW 46.20.120; creating new sections; making appropriations and authorizing expenditures for capital improvements; and providing an effective date.

MOTION

On motion of Senator Eide and without objection, Engrossed Substitute House Bill No. 2053 was placed on the second reading calendar under suspension of the rules.

MOTION

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

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5891.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2082, by House Committee on Ways & Means (originally sponsored by Representatives Darneille, Goodman, Dickerson, Roberts, Pettigrew, Appleton, Ryu, Fitzgibbon, Finn, Orwall, Ormsby, Ladenburg, Kenney and Moscoso)

Making changes to the disability lifeline program. Revised for 1st Substitute: Concerning the long-term disability assistance program and the essential needs and housing support program.

The measure was read the second time.

MOTION

Senator Regala moved that the following committee striking amendment by the Committee on Ways & Means be not adopted: Strike everything after the enacting clause and insert the following:

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

(a) Persons who have a long-term disability and apply for federal supplemental security income benefits should receive assistance while their application for federal benefits is pending, with repayment from the federal government of state-funded income assistance paid through the aged, blind, or disabled assistance program;

(b) Persons who are incapacitated from gainful employment for an extended period, but who may not meet the level of severity of a long-term disability, are at increased risk of homelessness; and

(c) Persons who are homeless and suffering from significant medical impairments, mental illness, or chemical dependency face substantial barriers to successful participation in, and completion of, needed medical or behavioral health treatment services. Stable housing increases the likelihood of compliance with and completion of treatment.

(2) Through this act, the legislature intends to:

(a) Terminate all components of the disability lifeline program created in 2010 and codified in RCW 74.04.005 and create new programs: (i) To provide financial grants through the aged, blind, and disabled assistance program and the pregnant women assistance program; and (ii) to provide services through the essential needs and housing support program; and

(b) Increase opportunities to utilize limited public funding, combined with private charitable and volunteer efforts to serve persons who are recipients of the benefits provided by the new programs created under this act.

**NEW SECTION. Sec. 2.** Effective October 31, 2011, the disability lifeline program, as defined under chapter 74.04 RCW, is terminated and all benefits provided under that program shall expire and cease to exist.

**NEW SECTION. Sec. 3.** (1)(a) Effective November 1, 2011, the aged, blind, or disabled assistance program shall provide financial grants to persons in need who:

(i) Are not eligible to receive federal aid assistance, other than basic food benefits transferred electronically and medical assistance;

(ii) Meet the eligibility requirements of subsection (3) of this section; and

(iii) Are aged, blind, or disabled. For purposes of determining eligibility for assistance for the aged, blind, or disabled assistance program, the following definitions apply:

(A) "Aged" means age sixty-five or older.

(B) "Blind" means statutorily blind as defined for the purpose of determining eligibility for the federal supplemental security income program.

(C) "Disabled" means likely to meet the federal supplemental security income disability standard. In making this determination, the department should give full consideration to the cumulative impact of an applicant's multiple impairments, an applicant's age, and vocational and educational history but need not duplicate the full five-step sequential review process set out in federal supplemental security income regulations.

In determining whether a person is disabled, the department may rely on the following:

(I) A previous disability determination by the social security administration or the disability determination service entity within the department; or

(II) A determination that an individual is eligible to receive optional categorically needy medicaid as a disabled person under

the federal regulations at 42 C.F.R. Parts 435, Secs. 201(a)(3) and 210.

(b) The following persons are not eligible for the aged, blind, or disabled assistance program:

(i) Persons who are not able to engage in gainful employment due primarily to alcohol or drug addiction. These persons shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. This subsection may not be construed to prohibit the department from granting long-term disability assistance benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the long-term disability assistance program; or

(ii) Persons for whom there has been a final determination by the social security administration of ineligibility for federal supplemental security income benefits.

(c) Persons may receive aged, blind, or disabled assistance benefits pending application for federal supplemental security income benefits. The monetary value of any aged, blind, or disabled assistance benefit that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.

(2) Effective November 1, 2011, the pregnant women assistance program shall provide financial grants to persons who:

(a) Are not eligible to receive federal aid assistance other than basic food benefits or medical assistance; or

(b) Are pregnant and in need, based upon the current income and resource standards of the federal temporary assistance for needy families program, but are ineligible for federal temporary assistance for needy families benefits for a reason other than failure to cooperate in program requirements; and

(c) Meet the eligibility requirements of subsection (3) of this section.

(3) To be eligible for the aged, blind, or disabled assistance program under subsection (1) of this section or the pregnant women assistance program under subsection (2) of this section, a person must:

(a) Be a citizen or alien lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(b) Have furnished the department his or her social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(c) Have not refused or failed without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(d) Not have refused or failed to cooperate in obtaining federal aid assistance, without good cause.

(4) Effective November 1, 2011, referrals for essential needs and housing support under section 4 of this act shall be provided to persons found eligible for medical care services under RCW 74.09.035 who are not recipients of alcohol and addiction services provided under chapter 74.50 RCW or are not recipients of aged, blind, or disabled assistance.



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(5) No person may be considered an eligible individual for benefits under this section with respect to any month if during that month the person:

(a) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or

(b) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(6) The department must review the cases of all persons, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, or recipients of aged, blind, or disabled assistance, who have received medical care services for twelve consecutive months, and at least annually after the first review, to determine whether they are eligible for the aged, blind, or disabled assistance program.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.185C RCW to read as follows:

**Grants to local governments and community-based organizations for essential needs and housing support.**

(1) The department shall distribute funds for the essential needs and housing support program established under this section in a manner consistent with the requirements of this section and the biennial operating budget. The first distribution of funds must be completed by September 1, 2011. Essential needs or housing support is only for persons found eligible for such services under section 3(4) of this act and is not considered an entitlement.

(2) The department shall distribute funds appropriated for the essential needs and housing support program in the form of grants to designated essential needs support and housing support entities within each county. The department shall not distribute any funds until it approves the expenditure plan submitted by the designated essential needs support and housing support entities. The amount of funds to be distributed pursuant to this section shall be designated in the biennial operating budget. For the sole purpose of meeting the initial distribution of funds date, the department may distribute partial funds, as provided in the biennial operating budget, upon the department's approval of a preliminary expenditure plan. The department shall not distribute the remaining funds until it has approved a final expenditure plan.

(3) As provided in the biennial operating budget, for the 2011-2013 biennium, a contingency fund shall be used solely for those clients who are at imminent risk of losing stable housing or at imminent risk of losing one of the other services defined in section 7(6) of this act. For purposes of this chapter, "imminent risk" means the client has written proof that he or she will lose his or her housing within the next thirty days or that the services will be discontinued within the next thirty days.

(4) For each county, the department shall designate an essential needs support entity and a housing support entity that will begin providing these supports to essential needs and housing support program recipients on November 1, 2011. Essential needs and housing support entities are not required to provide assistance to every essential needs and housing support recipient that is referred to the local entity or who meets the priority standards in subsection (5)(c) of this section.

(a) Each designated entity must be a local government or community-based organization, and may administer the funding for essential needs support, housing support, or both. Designated entities have the authority to subcontract with qualified entities. Upon request, and the approval of the department, two or more counties may combine resources to more effectively deliver services.

(b) The department's designation process must include a review of proficiency in managing housing or human services programs when designating housing support entities.

(c) Within a county, if the department directly awards separate grants to the designated housing support entity and the designated essential needs support entity, the department shall determine the amount allocated for essential needs support as directed in the biennial operating budget.

(5)(a) Essential needs and housing support entities must use funds distributed under this section as flexibly as is practicable to provide essential needs items and housing support to recipients of the essential needs and housing support program, subject to the requirements of this section.

(b) Benefits provided under the essential needs and housing support program shall not be provided to recipients in the form of cash assistance.

(c) The appropriations by the legislature for the purposes of the essential needs and housing support program established under this section shall be based on forecasted program caseloads. To the extent that actual caseloads are less than forecasted, the proportional amount of the appropriation shall lapse and remain unexpended. Savings resulting from program caseload attrition from forecasted levels shall not result in increased per-client expenditures.

(d) In awarding housing support, the designated housing support entity shall provide housing support to clients who are homeless persons as defined in RCW 43.185C.010.

(e) Essential needs and housing support entities must partner with other public and private organizations to maximize the beneficial impact of funds distributed under this section, and should attempt to leverage other sources of public and private funds to serve essential needs and housing support recipients. Funds appropriated in the operating budget for essential needs and housing support must be used only to serve persons eligible to receive services under that program.

(6) The department shall use no more than five percent of the funds for administration of the essential needs and housing support program. Each essential needs and housing support entity shall use no more than seven percent of the funds for administrative expenses.

(7) The department shall:

(a) Require housing support entities to enter data into the homeless client management information system;

(b) Require essential needs support entities to report on services provided under this section;

(c) In collaboration with the department of social and health services, submit a report annually to the relevant policy and fiscal committees of the legislature. A preliminary report shall be submitted by December 31, 2011, and must include (c)(i), (iii), and (v) of this subsection. Annual reports must be submitted beginning December 1, 2012, and must include:

(i) A description of the actions the department has taken to achieve the objectives of this act;

(ii) The amount of funds used by the department to administer the program;

(iii) Information on the housing status of essential needs and housing support recipients served by housing support entities, and individuals referred for housing support by the department of social and health services, but not receiving services;

(iv) Grantee expenditure data related to administration and services provided under this section; and

(v) Efforts made to partner with other entities and leverage sources or public and private funds;

(d) Review the data submitted by the designated entities, and make recommendations for program improvements and administrative efficiencies. The department has the authority to designate alternative entities as necessary due to performance or

other significant issues. Such change must only be made after consultation with the department of social and health services and the impacted entity.

(8) The department, counties, and essential needs and housing support entities are not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against them related to decisions regarding: (a) The provision or lack of provision of housing or essential needs support; or (b) the type of housing arrangement supported with funds allocated under this section, when the decision was made in good faith and in the performance of the powers and duties under this section. However, this section does not prohibit legal actions against the department, county, or essential needs or housing support entity to enforce contractual duties or obligations.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.185C RCW to read as follows:

The department, in collaboration with the department of social and health services, shall develop a mechanism through which the department and local governments or community-based organizations can verify a person has been determined eligible and remains eligible for medical care services under RCW 74.09.035 by the department of social and health services.

**Sec. 6.** RCW 74.09.035 and 2011 c 284 s 3 are each amended to read as follows:

(1) To the extent of available funds, medical care services may be provided to ((recipients of disability lifeline benefits, persons denied disability lifeline benefits under RCW 74.04.005(5)(b) or 74.04.655 who otherwise meet the requirements of RCW 74.04.005(5)(a), and recipients of alcohol and drug addiction services provided under chapter 74.50 RCW, in accordance with medical eligibility requirements established by the department.));

(a) Persons who:

(i) Are incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department. The standard for incapacity in this subsection, as evidenced by the ninety-day duration standard, is not intended to be as stringent as federal supplemental security income disability standards;

(ii) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(iii) Have furnished the department their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(iv) Have countable income as described in RCW 74.04.005 at or below four hundred twenty-eight dollars for a married couple or at or below three hundred thirty-nine dollars for a single individual; and

(v) Do not have countable resources in excess of those described in RCW 74.04.005.

(b) Persons eligible for the aged, blind, or disabled assistance program authorized in section 3 of this act and who are not eligible for medicaid under RCW 74.09.510.

(c) Persons eligible for alcohol and drug addiction services provided under chapter 74.50 RCW, in accordance with medical eligibility requirements established by the department.

(d) The following persons are not eligible for medical care services:

(i) Persons who are unemployable due primarily to alcohol or drug addiction, except as provided in (c) of this subsection. These persons shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. This

subsection shall not be construed to prohibit the department from granting medical care services benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for medical care services;

(ii) Persons who refuse or fail to cooperate in obtaining federal aid assistance, without good cause;

(iii) Persons who refuse or fail without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(iv) Persons who are fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or who are violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(e) For purposes of determining whether a person is incapacitated from gainful employment under (a) of this subsection:

(i) The department shall adopt by rule medical criteria for incapacity determinations to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information; and

(ii) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(f) For purposes of reviewing a person's continuing eligibility and in order to remain eligible for the program, persons who have been found to have an incapacity from gainful employment must demonstrate that there has been no material improvement in their medical or mental health condition. The department may discontinue benefits when there was specific error in the prior determination that found the person eligible by reason of incapitation.

(2) Enrollment in medical care services may not result in expenditures that exceed the amount that has been appropriated in the operating budget. If it appears that continued enrollment will result in expenditures exceeding the appropriated level for a particular fiscal year, the department may freeze new enrollment and establish a waiting list of ((eligible)) persons who may receive benefits only when sufficient funds are available. ((Upon implementation of a federal medicaid 1115 waiver providing federal matching funds for medical care services, persons subject to termination of disability lifeline benefits under RCW 74.04.005(5)(h) remain enrolled in medical care services and persons subject to denial of disability lifeline benefits under RCW 74.04.005(5)(h) remain eligible for medical care services.

—(2)) (3) Determination of the amount, scope, and duration of medical care services shall be limited to coverage as defined by the department, except that adult dental, and routine foot care shall not be included unless there is a specific appropriation for these services.

((3)) (4) The department shall enter into performance-based contracts with one or more managed health care systems for the provision of medical care services ((to recipients of disability lifeline benefits)) under this section. The contract must provide for integrated delivery of medical and mental health services.

((4)) (5) The department shall establish standards of assistance and resource and income exemptions, which may include

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

deductibles and co- insurance provisions. In addition, the department may include a prohibition against the voluntary assignment of property or cash for the purpose of qualifying for assistance.

~~((5))~~ (6) Residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for persons with intellectual disabilities, as that term is described by federal law, who are eligible for medical care services shall be provided medical services to the same extent as provided to those persons eligible under the medical assistance program.

((6) Eligibility for medical care services shall commence with the date of certification for disability lifeline benefits or the date of eligibility for alcohol and drug addiction services provided under chapter 74.50 RCW.)

(7) Eligibility for medical care services shall commence with the date of certification for medical services, date of eligibility for the aged, blind, or disabled assistance program provided under section 3 of this act, or the date or eligibility for alcohol and drug addiction services provided under chapter 74.50 RCW.

**NEW SECTION. Sec. 7.** For the purposes of this chapter, unless the context indicates otherwise, the following definitions shall apply:

(1) "Aged, blind, and disabled assistance program" means the program established under section 3 of this act.

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

(3) "Director" or "secretary" means the secretary of social and health services.

(4) "Essential needs and housing support program" means the program established under section 4 of this act.

(5) "Essential needs support" means personal health and hygiene items, cleaning supplies, other necessary items and transportation passes or tokens provided through an essential needs support entity established under section 4 of this act.

(6) "Housing support" means assistance provided by a designated housing support entity established under section 4 of this act to maintain existing housing when the client is at imminent risk of becoming homeless, to obtain housing, or to obtain heat, electricity, natural gas, sewer, garbage, and water services when the client is at imminent risk of losing these services.

(7) "Pregnant women assistance program" means the program established under section 3 of this act.

(8) In the construction of words and phrases used in this chapter, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders, and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

**Sec. 8.** RCW 74.04.005 and 2010 1st sp.s. c 8 s 4 are each amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance"~~((--))~~ means public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act, and federal aid assistance.

(2) "Department"~~((--))~~ means the department of social and health services.

(3) "County or local office"~~((--))~~ means the administrative office for one or more counties or designated service areas.

(4) "Director" or "secretary" means the secretary of social and health services.

(5) ~~((Disability lifeline))~~ Essential needs and housing support program means ((a program that provides aid and support in accordance with the conditions set out in this subsection.

(a) Aid and assistance shall be provided to persons who are not eligible to receive federal aid assistance, other than basic food benefits transferred electronically and medical assistance and meet one of the following conditions:

(i) Are pregnant and in need, based upon the current income and resource requirements of the federal temporary assistance for needy families program; or

(ii) Are incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department. The standard for incapacity in this subsection, as evidenced by the ninety-day duration standard, is not intended to be as stringent as federal supplemental security income disability standards; and

(A) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(B) Have furnished the department their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(C) Have not refused or failed without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(D) Have not refused or failed without good cause to participate in vocational rehabilitation services, if an assessment conducted under RCW 74.04.655 indicates that the person might benefit from such services. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in vocational rehabilitation services, or when vocational rehabilitation services are not available to the person in the county of his or her residence.

(b)(i) Persons who initially apply and are found eligible for disability lifeline benefits based upon incapacity from gainful employment under (a) of this subsection on or after September 2, 2010, who are homeless and have been assessed as needing chemical dependency or mental health treatment or both, must agree, as a condition of eligibility for the disability lifeline program, to accept a housing voucher in lieu of a cash grant if a voucher is available. The department shall establish the dollar value of the housing voucher. The dollar value of the housing voucher may differ from the value of the cash grant. Persons receiving a housing voucher under this subsection also shall receive a cash stipend of fifty dollars per month.

(ii) If the department of commerce has determined under RCW 43.330.175 that sufficient housing is not available, persons described in this subsection who apply for disability lifeline benefits during the time period that housing is not available shall receive a cash grant in lieu of a cash stipend and housing voucher.

(iii) Persons who refuse to accept a housing voucher under this subsection but otherwise meet the eligibility requirements of (a) of this subsection are eligible for medical care services benefits under RCW 74.09.035, subject to the time limits in (h) of this subsection.

(c) The following persons are not eligible for the disability lifeline program:

(i) Persons who are unemployable due primarily to alcohol or drug addiction. These persons shall be referred to appropriate assessment, treatment, shelter, or supplemental security income

referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. This subsection shall not be construed to prohibit the department from granting disability lifeline benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the disability lifeline program;

(ii) Persons who refuse or fail to cooperate in obtaining federal aid assistance, without good cause.

(d) Disability lifeline benefits shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in (a) of this subsection, and who will accept available services that can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(e) Persons who are likely eligible for federal supplemental security income benefits shall be moved into the disability lifeline expedited component of the disability lifeline program. Persons placed in the expedited component of the program may, if otherwise eligible, receive disability lifeline benefits pending application for federal supplemental security income benefits. The monetary value of any disability lifeline benefit that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.

(f) For purposes of determining whether a person is incapacitated from gainful employment under (a) of this subsection:

(i) The department shall adopt by rule medical criteria for disability lifeline incapacity determinations to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information; and

(ii) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(g) Persons receiving disability lifeline benefits based upon a finding of incapacity from gainful employment who remain otherwise eligible shall have their benefits discontinued unless the recipient demonstrates no material improvement in their medical or mental health condition. The department may discontinue benefits when there was specific error in the prior determination that found the person eligible by reason of incapacitation.

(h)(i) Beginning September 1, 2010, no person who is currently receiving or becomes eligible for disability lifeline program benefits shall be eligible to receive benefits under the program for more than twenty-four months in a sixty-month period. For purposes of this subsection, months of receipt of general assistance-unemployable benefits count toward the twenty-four month limit. Months during which a person received benefits under the expedited component of the disability lifeline or general assistance program or under the aged, blind, or disabled component of the disability lifeline or general assistance program shall not be included when determining whether a person has been receiving benefits for more than twenty-four months. On or before July 1, 2010, the department must review the cases of all persons who have received disability lifeline benefits or general assistance unemployable benefits for at least twenty months as of that date. On or before September 1,

2010, the department must review the cases of all remaining persons who have received disability lifeline benefits for at least twelve months as of that date. The review should determine whether the person meets the federal supplemental security income disability standard and, if the person does not meet that standard, whether the receipt of additional services could lead to employability. If a need for additional services is identified, the department shall provide case management services, such as assistance with arranging transportation or locating stable housing, that will facilitate the person's access to needed services. A person may not be determined ineligible due to exceeding the time limit unless he or she has received a case review under this subsection finding that the person does not meet the federal supplemental security income disability standard.

(ii) The time limits established under this subsection expire June 30, 2013.

(i) No person may be considered an eligible individual for disability lifeline benefits with respect to any month if during that month the person:

(i) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or

(ii) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction)) the program established in section 4 of this act.

(6) ("Disability lifeline expedited" means a component of the disability lifeline program under which persons receiving disability lifeline benefits have been determined, after examination by an appropriate health care provider, to be likely to be eligible for federal supplemental security income benefits based on medical and behavioral health evidence that meets the disability standards used for the federal supplemental security income program.

(7)) "Aged, blind, or disabled assistance program" means the program established under section 3 of this act.

(7) "Federal aid assistance"((--)) means the specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(8) "Applicant"((--)) means any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(9) "Recipient"((--)) means any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(10) "Standards of assistance"((--)) means the level of income required by an applicant or recipient to maintain a level of living specified by the department.

(11) "Resource"((--)) means any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent. The department may by rule designate resources that an applicant may retain and not be ineligible for public assistance because of such resources. Exempt resources shall include, but are not limited to:

(a) A home that an applicant, recipient, or their dependents is living in, including the surrounding property;

(b) Household furnishings and personal effects;

(c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed five thousand dollars;

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(d) A motor vehicle necessary to transport a household member with a physical disability. This exclusion is limited to one vehicle per person with a physical disability;

(e) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance. The department shall also allow recipients of temporary assistance for needy families to exempt savings accounts with combined balances of up to an additional three thousand dollars;

(f) Applicants for or recipients of ~~((disability-lifetime))~~ benefits under sections 3 and 4 of this act shall have their eligibility based on resource limitations consistent with the temporary assistance for needy families program rules adopted by the department; and

(g) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance for a period not to exceed nine months from the date the agreement is signed pursuant to this section to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property ~~((-- PROVIDED, That))~~ if:

(A) The applicant or recipient signs an agreement to repay the lesser of the amount of aid received or the net proceeds of such sale;

(B) If the owner of the excess property ceases to make good faith efforts to sell the property, the entire amount of assistance may become an overpayment and a debt due the state and may be recovered pursuant to RCW 43.20B.630;

(C) Applicants and recipients are advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good faith efforts to sell have ceased, prior to assessment of an overpayment under this section; and

(D) At the time assistance is authorized, the department files a lien without a sum certain on the specific property.

(12) "Income" ~~((--))~~ means:

(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance. The department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him or her to decrease his or her need for public assistance or to aid in rehabilitating him or her or his or her dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance. In addition, for cash assistance the department may disregard income pursuant to RCW 74.08A.230 and 74.12.350.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(13) "Need" ~~((--))~~ means the difference between the applicant's or recipient's standards of assistance for himself or herself and the dependent members of his or her family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his or her family.

(14) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

(15) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders, and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

**Sec. 9.** RCW 74.09.510 and 2010 c 94 s 24 are each amended to read as follows:

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

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

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

(3) Individuals who:

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

(b) On or after July 22, 2007, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state; and

(c) On their eighteenth birthday, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state;

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

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

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

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

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

(9) Other individuals eligible for medical services under RCW 74.09.035 based on age, blindness, or disability and income and resources standards for medical care services and 74.09.700 for whom federal financial participation is available under Title XIX of the social security act;

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

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

**Sec. 10.** RCW 74.50.055 and 1989 1st ex.s. c 18 s 4 are each amended to read as follows:

(1) A person shall not be eligible for treatment services under this chapter unless he or she:

(a) Meets the ~~((financial))~~ income and resource eligibility requirements ~~((contained in RCW 74.04.005))~~ for the medical care services program under RCW 74.09.035(1)(a)(iv) and (v); and

(b) Is incapacitated from gainful employment, which incapacity will likely continue for a minimum of sixty days.

(2) First priority for receipt of treatment services shall be given to pregnant women and parents of young children.

(3) In order to rationally allocate treatment services, the department may establish by rule caseload ceilings and additional eligibility criteria, including the setting of priorities among classes of persons for the receipt of treatment services. Any such rules shall be consistent with any conditions or limitations contained in any appropriations for treatment services.

**Sec. 11.** RCW 70.96A.530 and 2010 1st sp.s. c 8 s 10 are each amended to read as follows:

If an assessment by a certified chemical dependency counselor indicates a need for drug or alcohol treatment, in order to enable a person receiving ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act to improve his or her health status and transition from ~~((disability lifeline))~~ those benefits to employment, or transition to federal disability benefits, the person must be given high priority for enrollment in treatment, within funds appropriated for that treatment. However, first priority for receipt of treatment services must be given to pregnant women and parents of young children. This section expires June 30, 2013. ~~((Persons who are terminated from disability lifeline benefits under RCW 74.04.005(5)(h) and are actively engaged in chemical dependency treatment during the month they are terminated shall be provided the opportunity to complete their current course of treatment.))~~

**Sec. 12.** RCW 10.101.010 and 2010 1st sp.s. c 8 s 12 are each amended to read as follows:

The following definitions shall be applied in connection with this chapter:

(1) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((disability lifeline))~~ aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty- five percent or less of the current federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(2) "Indigent and able to contribute" means a person who, at any stage of a court proceeding, is unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are less than the anticipated cost of counsel but sufficient for the person to pay a portion of that cost.

(3) "Anticipated cost of counsel" means the cost of retaining private counsel for representation on the matter before the court.

(4) "Available funds" means liquid assets and disposable net monthly income calculated after provision is made for bail obligations. For the purpose of determining available funds, the following definitions shall apply:

(a) "Liquid assets" means cash, savings accounts, bank accounts, stocks, bonds, certificates of deposit, equity in real estate,

and equity in motor vehicles. A motor vehicle necessary to maintain employment and having a market value not greater than three thousand dollars shall not be considered a liquid asset.

(b) "Income" means salary, wages, interest, dividends, and other earnings which are reportable for federal income tax purposes, and cash payments such as reimbursements received from pensions, annuities, social security, and public assistance programs. It includes any contribution received from any family member or other person who is domiciled in the same residence as the defendant and who is helping to defray the defendant's basic living costs.

(c) "Disposable net monthly income" means the income remaining each month after deducting federal, state, or local income taxes, social security taxes, contributory retirement, union dues, and basic living costs.

(d) "Basic living costs" means the average monthly amount spent by the defendant for reasonable payments toward living costs, such as shelter, food, utilities, health care, transportation, clothing, loan payments, support payments, and court-imposed obligations.

**Sec. 13.** RCW 13.34.030 and 2011 c 330 s 3 and 2011 c 309 s 22 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," "juvenile," and "youth" means:

(a) Any individual under the age of eighteen years; or

(b) Any individual age eighteen to twenty-one years who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

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

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(11) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(12) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((disability lifeline))~~ aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(13) "Out-of-home care" means 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) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child.

(15) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(16) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in ~~((section 4 of this act))~~ RCW 13.--- (section 4, chapter 309, Laws of 2011).

(17) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(18) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or 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 RCW 74.13.020.

(19) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031.

**Sec. 14.** RCW 26.19.071 and 2010 1st sp.s. c 8 s 14 are each amended to read as follows:

(1) **Consideration of all income.** All income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent. Only the income of the parents of the children whose support is at issue shall be calculated for purposes of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation.

(2) **Verification of income.** Tax returns for the preceding two years and current paystubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs.

(3) **Income sources included in gross monthly income.** Except as specifically excluded in subsection (4) of this section, monthly gross income shall include income from any source, including:

(a) Salaries;

(b) Wages;

(c) Commissions;

(d) Deferred compensation;

(4) ~~((4))~~ (1) of this section;

(f) Contract-related benefits;

(g) Income from second jobs, except as excluded for income in subsection (4)(~~(h)~~)(i) of this section;

- (h) Dividends;
- (i) Interest;
- (j) Trust income;
- (k) Severance pay;
- (l) Annuities;
- (m) Capital gains;
- (n) Pension retirement benefits;
- (o) Workers' compensation;
- (p) Unemployment benefits;
- (q) Maintenance actually received;
- (r) Bonuses;
- (s) Social security benefits;
- (t) Disability insurance benefits; and

(u) Income from self-employment, rent, royalties, contracts, proprietorship of a business, or joint ownership of a partnership or closely held corporation.

**(4) Income sources excluded from gross monthly income.**

The following income and resources shall be disclosed but shall not be included in gross income:

- (a) Income of a new spouse or new domestic partner or income of other adults in the household;
- (b) Child support received from other relationships;
- (c) Gifts and prizes;
- (d) Temporary assistance for needy families;
- (e) Supplemental security income;
- (f) ~~(Disability lifeline)~~ Aged, blind, or disabled assistance benefits;
- (g) Pregnant women assistance benefits;
- (h) Food stamps; and

~~(h)~~ (i) Overtime or income from second jobs beyond forty hours per week averaged over a twelve-month period worked to provide for a current family's needs, to retire past relationship debts, or to retire child support debt, when the court finds the income will cease when the party has paid off his or her debts.

Receipt of income and resources from temporary assistance for needy families, supplemental security income, ~~(disability lifeline)~~ aged, blind, or disabled assistance benefits, and food stamps shall not be a reason to deviate from the standard calculation.

**(5) Determination of net income.** The following expenses shall be disclosed and deducted from gross monthly income to calculate net monthly income:

- (a) Federal and state income taxes;
- (b) Federal insurance contributions act deductions;
- (c) Mandatory pension plan payments;
- (d) Mandatory union or professional dues;
- (e) State industrial insurance premiums;
- (f) Court-ordered maintenance to the extent actually paid;

(g) Up to five thousand dollars per year in voluntary retirement contributions actually made if the contributions show a pattern of contributions during the one-year period preceding the action establishing the child support order unless there is a determination that the contributions were made for the purpose of reducing child support; and

(h) Normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about which there is disagreement.

Items deducted from gross income under this subsection shall not be a reason to deviate from the standard calculation.

**(6) Imputation of income.** The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is

gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for an unemployable parent. Income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. In the absence of records of a parent's actual earnings, the court shall impute a parent's income in the following order of priority:

(a) Full-time earnings at the current rate of pay;

(b) Full-time earnings at the historical rate of pay based on reliable information, such as employment security department data;

(c) Full-time earnings at a past rate of pay where information is incomplete or sporadic;

(d) Full-time earnings at minimum wage in the jurisdiction where the parent resides if the parent has a recent history of minimum wage earnings, is recently coming off public assistance, ~~(disability lifeline)~~ aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential needs and housing support, supplemental security income, or disability, has recently been released from incarceration, or is a high school student;

(e) Median net monthly income of year-round full-time workers as derived from the United States bureau of census, current population reports, or such replacement report as published by the bureau of census.

**Sec. 15.** RCW 31.04.540 and 2010 1st sp.s. c 8 s 15 are each amended to read as follows:

(1) To the extent that implementation of this section does not conflict with federal law resulting in the loss of federal funding, proprietary reverse mortgage loan advances made to a borrower must be treated as proceeds from a loan and not as income for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(2) Undisbursed reverse mortgage funds must be treated as equity in the borrower's home and not as proceeds from a loan, resources, or assets for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(3) This section applies to any law or program relating to payments, allowances, benefits, or services provided on a means-tested basis by this state including, but not limited to, optional state supplements to the federal supplemental security income program, low-income energy assistance, property tax relief, ~~(disability lifeline benefits)~~ aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential needs and housing support, and medical assistance only to the extent this section does not conflict with Title 19 of the federal social security act.

**Sec. 16.** RCW 70.123.110 and 2010 1st sp.s. c 8 s 16 are each amended to read as follows:

~~(Disability lifeline)~~ Aged, blind, or disabled assistance benefits, essential needs and housing support benefits, pregnant women assistance benefits, or temporary assistance for needy families payments shall be made to otherwise eligible individuals who are residing in a secure shelter, a housing network or other shelter facility which provides shelter services to persons who are victims of domestic violence. Provisions shall be made by the department for the confidentiality of the shelter addresses where victims are residing.

**Sec. 17.** RCW 73.08.005 and 2010 1st sp.s. c 8 s 17 are each amended to read as follows:

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

(1) "Direct costs" includes those allowable costs that can be readily assigned to the statutory objectives of this chapter, consistent



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(2) "Family" means the spouse or domestic partner, surviving spouse, surviving domestic partner, and dependent children of a living or deceased veteran.

(3) "Indigent" means a person who is defined as such by the county legislative authority using one or more of the following definitions:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((disability-lifeline))~~ aged, blind, or disabled assistance benefits, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, medical care services, or supplemental security income;

(b) Receiving an annual income, after taxes, of up to one hundred fifty percent or less of the current federally established poverty level, or receiving an annual income not exceeding a higher qualifying income established by the county legislative authority; or

(c) Unable to pay reasonable costs for shelter, food, utilities, and transportation because his or her available funds are insufficient.

(4) "Indirect costs" includes those allowable costs that are generally associated with carrying out the statutory objectives of this chapter, but the identification and tracking of those costs cannot be readily assigned to a specific statutory objective without an accounting effort that is disproportionate to the benefit received. A county legislative authority may allocate allowable indirect costs to its veterans' assistance fund if it is accomplished in a manner consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(5) "Veteran" has the same meaning as defined in RCW 41.04.005 and 41.04.007, and includes a current member of the national guard or armed forces reserves who has been deployed to serve in an armed conflict.

(6) "Veterans' advisory board" means a board established by a county legislative authority under the authority of RCW 73.08.035.

(7) "Veterans' assistance fund" means an account in the custody of the county auditor, or the chief financial officer in a county operating under a charter, that is funded by taxes levied under the authority of RCW 73.08.080.

(8) "Veterans' assistance program" means a program approved by the county legislative authority under the authority of RCW 73.08.010 that is fully or partially funded by the veterans' assistance fund authorized by RCW 73.08.080.

**Sec. 18.** RCW 74.04.0052 and 2010 1st sp.s. c 8 s 18 are each amended to read as follows:

(1) The department shall determine, after consideration of all relevant factors and in consultation with the applicant, the most appropriate living situation for applicants under eighteen years of age, unmarried, and pregnant who are eligible for ~~((disability-lifeline))~~ benefits under sections 3 and 4 of this act. An appropriate living situation shall include a place of residence that is maintained by the applicant's parents, parent, legal guardian, or other adult relative as their or his or her own home and that the department finds would provide an appropriate supportive living arrangement. It also includes a living situation maintained by an agency that is licensed under chapter 74.15 RCW that the department finds would provide an appropriate supportive living arrangement. Grant assistance shall not be provided under this chapter if the applicant does not reside in the most appropriate living situation, as determined by the department.

(2) A pregnant minor residing in the most appropriate living situation, as provided under subsection (1) of this section, is presumed to be unable to manage adequately the funds paid to the

minor or on behalf of the dependent child or children and, unless the minor provides sufficient evidence to rebut the presumption, shall be subject to the protective payee requirements provided for under RCW 74.12.250 and 74.08.280.

(3) The department shall consider any statements or opinions by either parent of the unmarried minor parent or pregnant minor applicant as to an appropriate living situation for the minor, whether in the parental home or other situation. If the parents or a parent of the minor request, they or he or she shall be entitled to a hearing in juvenile court regarding designation of the parental home or other relative placement as the most appropriate living situation for the pregnant or parenting minor.

The department shall provide the parents or parent with the opportunity to make a showing that the parental home, or home of the other relative placement, is the most appropriate living situation. It shall be presumed in any administrative or judicial proceeding conducted under this subsection that the parental home or other relative placement requested by the parents or parent is the most appropriate living situation. This presumption is rebuttable.

(4) In cases in which the minor is unmarried and unemployed, the department shall, as part of the determination of the appropriate living situation, provide information about adoption including referral to community-based organizations providing counseling.

(5) For the purposes of this section, "most appropriate living situation" shall not include a living situation including an adult male who fathered the qualifying child and is found to meet the elements of rape of a child as set forth in RCW 9A.44.079.

**Sec. 19.** RCW 74.04.225 and 2010 1st sp.s. c 8 s 2 are each amended to read as follows:

(1) An online opportunity portal shall be established to provide the public with more effective access to available state, federal, and local services. The secretary of the department of social and health services shall act as the executive branch sponsor of the portal planning process. Under the leadership of the secretary, the department shall:

(a) Identify and select an appropriate solution and acquisition approach to integrate technology systems to create a user-friendly electronic tool for Washington residents to apply for benefits;

(b) Facilitate the adaptation of state information technology systems to allow applications generated through the opportunity portal and other compatible electronic application systems to seamlessly link to appropriate state information systems;

(c) Ensure that the portal provides access to a broad array of state, federal, and local services, including but not limited to: Health care services, higher education financial aid, tax credits, civic engagement, nutrition assistance, energy assistance, family support, and ~~((disability-lifeline-benefits))~~ the programs under sections 3 and 4 of this act and as defined in RCW 10.101.010, 13.34.030, ((43.330.175,)) 70.96A.530, 74.04.005, 74.04.652, 74.04.655, 74.04.657, and ((74.04.810)) sections 1 through 3 and 7 of this act;

(d) Design an implementation strategy for the portal that maximizes collaboration with community-based organizations to facilitate its use by low-income individuals and families;

(e) Provide access to the portal at a wide array of locations including but not limited to: Community or technical colleges, community college campuses where community service offices are colocated, community-based organizations, libraries, churches, food banks, state agencies, early childhood education sites, and labor unions;

(f) Ensure project resources maximize available federal and private funds for development and initial operation of the opportunity portal. Any incidental costs to state agencies shall be derived from existing resources. This subsection does not obligate or preclude the appropriation of future state funding for the opportunity portal;

(g) Determine the solution and acquisition approach by June 1, 2010.

(2) By December 1, 2011, and annually thereafter, the department of social and health services shall report to the legislature and governor. The report shall include data and information on implementation and outcomes of the opportunity portal, including any increases in the use of public benefits and increases in federal funding.

(3) The department shall develop a plan for implementing paperless application processes for the services included in the opportunity portal for which the electronic exchange of application information is possible. The plan should include a goal of achieving, to the extent possible, the transition of these services to paperless application processes by July 1, 2012. The plan must comply with federal statutes and regulations and must allow applicants to submit applications by alternative means to ensure that access to benefits will not be restricted.

(4) To the extent that the department enters into a contractual relationship to accomplish the purposes of this section, such contract or contracts shall be performance-based.

**Sec. 20.** RCW 74.04.230 and 2010 1st sp.s. c 8 s 20 are each amended to read as follows:

Persons eligible for ~~((disability lifeline))~~ medical care services benefits are eligible for mental health services to the extent that they meet the client definitions and priorities established by chapter 71.24 RCW.

**Sec. 21.** RCW 74.04.266 and 2010 1st sp.s. c 8 s 21 are each amended to read as follows:

In determining need for ~~((disability lifeline benefits))~~ aged, blind, or disabled assistance, and medical care services, the department may by rule and regulation establish a monthly earned income exemption in an amount not to exceed the exemption allowable under disability programs authorized in Title XVI of the federal social security act.

**Sec. 22.** RCW 74.04.620 and 2010 1st sp.s. c 8 s 22 are each amended to read as follows:

(1) The department is authorized to establish a program of state supplementation to the national program of supplemental security income consistent with Public Law 92-603 and Public Law 93-66 to those persons who are in need thereof in accordance with eligibility requirements established by the department.

(2) The department is authorized to establish reasonable standards of assistance and resource and income exemptions specifically for such program of state supplementation which shall be consistent with the provisions of the Social Security Act.

(3) The department is authorized to make payments to applicants for supplemental security income, pursuant to agreements as provided in Public Law 93-368, who are otherwise eligible for ~~((disability lifeline benefits))~~ aged, blind, or disabled assistance.

(4) Any agreement between the department and a supplemental security income applicant providing for the reimbursement of interim assistance to the department shall provide, if the applicant has been represented by an attorney, that twenty-five percent of the reimbursement received shall be withheld by the department and all or such portion thereof as has been approved as a fee by the United States department of health and human services shall be released directly to the applicant's attorney. The secretary may maintain such records as are deemed appropriate to measure the cost and effectiveness of such agreements and may make recommendations concerning the continued use of such agreements to the legislature.

**Sec. 23.** RCW 74.04.652 and 2010 1st sp.s. c 8 s 7 are each amended to read as follows:

(1) To ensure that persons who are likely eligible for supplemental security income benefits are transitioned from ~~((disability lifeline benefits to disability lifeline expedited))~~ the

essential needs and housing support program to the aged, blind or disabled assistance program, and the medicaid program, and then to the supplemental security income program as quickly as practicable, the department shall implement the early supplemental security income transition project starting in King, Pierce, and Spokane counties no later than July 1, 2010, and extending statewide no later than October 1, 2011. The program shall be implemented through performance-based contracts with managed health care systems providing medical care services under RCW 74.09.035 or other qualified entities. The participants shall have the following responsibilities and duties under this program:

(a) The entities with whom the department contracts to provide the program shall be responsible for:

(i) Systematically screening persons receiving ~~((disability lifeline))~~ benefits under section 5 of this act at the point of eligibility determination or shortly thereafter to determine if the persons should be referred for medical or behavioral health evaluations to determine whether they are likely eligible for supplemental security income;

(ii) Immediately sharing the results of the disability screening with the department;

(iii) Managing ~~((disability lifeline))~~ aged, blind, or disabled assistance incapacity evaluation examinations to provide timely access to needed medical and behavioral health evaluations and standardizing health care providers' conduct of incapacity evaluations. To maximize the timeliness and efficiency of incapacity evaluation examinations, the department must strongly consider contracting with a managed health care system with a network of health care providers that are trained and have agreed to conduct disability lifeline medical and psychological incapacity and recertification exams. The department may obtain medical evidence and other relevant information from sources other than the contracted entity if such evidence is available at the time of a person's application for disability lifeline benefits and is sufficient to support a determination that the person is incapacitated;

(iv) Maintaining a centralized appointment and clinical data system; and

(v) Assisting persons receiving ~~((disability lifeline benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, with obtaining additional medical or behavioral health examinations needed to meet the disability standard for federal supplemental security income benefits and with submission of applications for supplemental security income benefits.

(b) The department shall be responsible for:

(i) Determining incapacity and eligibility for ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act;

(ii) Making timely determinations that a person receiving ~~((disability lifeline benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, is likely eligible for supplemental security income based on medical evidence and other relevant information provided by a contracted entity, and immediately referring such persons to a contracted entity for services;

(iii) Developing standardized procedures for sharing data and information with the contracted entities to ensure timely identification of clients who have not been transferred to the ~~((disability lifeline expedited))~~ aged, blind, or disabled assistance program within four months of their date of application, but who may, upon further review, be appropriately transferred to that program;

(iv) Providing case management, in partnership with the managed health care system or contracted entity, to support persons' transition to federal supplemental security income and medicaid benefits; and

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(v) Identifying a savings determination methodology, in consultation with the contracted entities, the office of financial management, and the legislature, on or before implementation of the project.

(2) Early supplemental security income transition project contracts shall include the following performance goals:

(a) Persons receiving ~~((disability lifeline benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, should be screened within thirty days of entering the program to determine the propriety of their transfer to the ~~((disability lifeline expedited))~~ aged, blind, or disabled assistance program; and

(b) Seventy-five percent of persons receiving ~~((disability lifeline benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, that appear likely to qualify for supplemental security income benefits shall be transferred to the ~~((disability lifeline expedited))~~ aged, blind, or disabled assistance program within four months of their application for disability lifeline benefits.

(3) The initial focus of the efforts of the early supplemental security income transition project shall be on persons who have been receiving ~~((disability lifeline or general assistance unemployable benefits))~~ medical care services, except recipients of alcohol and addiction treatment under chapter 74.50 RCW or aged, blind, or disabled assistance, for twelve or more months ((as of September 1, 2010)).

(4) No later than December 1, 2011, the department shall report to the governor and appropriate policy and fiscal committees on whether the early supplemental security income transition project performance goals in subsection (2) of this section were met, including the reasons those goals were or were not met.

(5) Pursuant to RCW 41.06.142(3), performance-based contracting under this section is expressly mandated by the legislature and is not subject to the processes set forth in RCW 41.06.142 (1), (4), and (5).

The statewide expansion of the program under this section shall be considered expressly mandated by the legislature and not be subject to the provisions of RCW 41.06.142 (1), (4), and (5).

**Sec. 24.** RCW 74.04.655 and 2010 1st sp.s. c 8 s 5 are each amended to read as follows:

(1) The economic services administration shall work jointly with the division of vocational rehabilitation to develop an assessment tool that must be used to determine whether the programs offered by the division of vocational rehabilitation could assist persons receiving ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act in returning to the workforce. The assessment tool shall be completed no later than December 1, 2010. The economic services administration shall begin using the tool no later than January 1, 2011. No later than December 30, 2011, the department shall report on the use of the tool and to what extent the programs offered by the division of vocational rehabilitation have been successful in returning persons receiving disability lifeline benefits to the workforce.

(2) After January 1, 2011, all persons receiving ~~((disability lifeline))~~ benefits under sections 3 and 5 of this act shall be assessed to determine whether they would likely benefit from a program offered by the division of vocational rehabilitation. If the assessment indicates that the person might benefit, the economic services administration shall make a referral to the division of vocational rehabilitation. If the person is found eligible for a program with the division of vocational rehabilitation, he or she must participate in that program to remain eligible for the monthly stipend and housing voucher or a cash grant. If the person refuses to participate or does not complete the program, the department

shall terminate the cash stipend and housing voucher or cash grant but may not terminate medical coverage and food benefits.

**Sec. 25.** RCW 74.04.657 and 2010 1st sp.s. c 8 s 6 are each amended to read as follows:

During the application process for ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act, the department shall inquire of each applicant whether he or she has ever served in the United States military service. If the applicant answers in the affirmative, the department shall confer with a veterans benefit specialist with the Washington state department of veterans affairs or a contracted veterans service officer in the community to determine whether the applicant is eligible for any benefits or programs offered to veterans by either the state or the federal government.

**Sec. 26.** RCW 74.04.770 and 2010 1st sp.s. c 8 s 23 are each amended to read as follows:

The department shall establish consolidated standards of need each fiscal year which may vary by geographical areas, program, and family size, for temporary assistance for needy families, refugee assistance, supplemental security income, and ~~((disability lifeline))~~ benefits under section 3 of this act. Standards for temporary assistance for needy families, refugee assistance, and ~~((disability lifeline))~~ benefits under section 3 of this act shall be based on studies of actual living costs and generally recognized inflation indices and shall include reasonable allowances for shelter, fuel, food, transportation, clothing, household maintenance and operations, personal maintenance, and necessary incidentals. The standard of need may take into account the economies of joint living arrangements, but unless explicitly required by federal statute, there shall not be proration of any portion of assistance grants unless the amount of the grant standard is equal to the standard of need.

The department is authorized to establish rateable reductions and grant maximums consistent with federal law.

Payment level will be equal to need or a lesser amount if rateable reductions or grant maximums are imposed. In no case shall a recipient of supplemental security income receive a state supplement less than the minimum required by federal law.

The department may establish a separate standard for shelter provided at no cost.

**Sec. 27.** RCW 74.08.043 and 2010 1st sp.s. c 8 s 24 are each amended to read as follows:

In determining the living requirements of otherwise eligible applicants and recipients of supplemental security income and ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act, the department is authorized to consider the need for personal and special care and supervision due to physical and mental conditions.

**Sec. 28.** RCW 74.08.278 and 2010 1st sp.s. c 8 s 25 are each amended to read as follows:

In order to comply with federal statutes and regulations pertaining to federal matching funds and to provide for the prompt payment of initial grants and adjusting payments of grants the secretary is authorized to make provisions for the cash payment of assistance by the secretary or county administrators by the establishment of a central operating fund. The secretary may establish such a fund with the approval of the state auditor from moneys appropriated to the department for the payment of ~~((disability lifeline))~~ benefits under section 3 of this act in a sum not to exceed one million dollars. Such funds shall be deposited as agreed upon by the secretary and the state auditor in accordance with the laws regulating the deposits of public funds. Such security shall be required of the depository in connection with the fund as the state treasurer may prescribe. Moneys remaining in the fund shall be returned to the general fund at the end of the biennium, or an accounting of proper expenditures from the fund shall be made to the state auditor. All expenditures from such central operating fund shall be reimbursed out of and charged to the proper program

appropriated by the use of such forms and vouchers as are approved by the secretary of the department and the state auditor. Expenditures from such fund shall be audited by the director of financial management and the state auditor from time to time and a report shall be made by the state auditor and the secretary as are required by law.

**Sec. 29.** RCW 74.08.335 and 2010 1st sp.s. c 8 s 26 are each amended to read as follows:

Temporary assistance for needy families and ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act shall not be granted to any person who has made an assignment or transfer of property for the purpose of rendering himself or herself eligible for the assistance. There is a rebuttable presumption that a person who has transferred or transfers any real or personal property or any interest in property within two years of the date of application for the assistance without receiving adequate monetary consideration therefor, did so for the purpose of rendering himself or herself eligible for the assistance. Any person who transfers property for the purpose of rendering himself or herself eligible for assistance, or any person who after becoming a recipient transfers any property or any interest in property without the consent of the secretary, shall be ineligible for assistance for a period of time during which the reasonable value of the property so transferred would have been adequate to meet the person's needs under normal conditions of living: PROVIDED, That the secretary is hereby authorized to allow exceptions in cases where undue hardship would result from a denial of assistance.

**Sec. 30.** RCW 74.08A.210 and 2010 1st sp.s. c 8 s 27 are each amended to read as follows:

(1) In order to prevent some families from developing dependency on temporary assistance for needy families, the department shall make available to qualifying applicants a diversion program designed to provide brief, emergency assistance for families in crisis whose income and assets would otherwise qualify them for temporary assistance for needy families.

(2) Diversion assistance may include cash or vouchers in payment for the following needs:

- (a) Child care;
- (b) Housing assistance;
- (c) Transportation-related expenses;
- (d) Food;
- (e) Medical costs for the recipient's immediate family;
- (f) Employment-related expenses which are necessary to keep or obtain paid unsubsidized employment.

(3) Diversion assistance is available once in each twelve-month period for each adult applicant. Recipients of diversion assistance are not included in the temporary assistance for needy families program.

(4) Diversion assistance may not exceed one thousand five hundred dollars for each instance.

(5) To be eligible for diversion assistance, a family must otherwise be eligible for temporary assistance for needy families.

(6) Families ineligible for temporary assistance for needy families or ~~((disability lifeline))~~ benefits under section 3 of this act due to sanction, noncompliance, the lump sum income rule, or any other reason are not eligible for diversion assistance.

(7) Families must provide evidence showing that a bona fide need exists according to subsection (2) of this section in order to be eligible for diversion assistance.

An adult applicant may receive diversion assistance of any type no more than once per twelve-month period. If the recipient of diversion assistance is placed on the temporary assistance for needy families program within twelve months of receiving diversion assistance, the prorated dollar value of the assistance shall be treated as a loan from the state, and recovered by deduction from the recipient's cash grant.

**Sec. 31.** RCW 74.08A.440 and 2010 1st sp.s. c 8 s 32 are each amended to read as follows:

Recipients exempted from active work search activities due to incapacity or a disability shall receive ~~((disability lifeline))~~ services for which they are eligible, including aged, blind, or disabled assistance benefits as they relate to the facilitation of enrollment in the federal supplemental security income program, referrals to essential needs and housing support benefits, access to chemical dependency treatment, referrals to vocational rehabilitation, and other services needed to assist the recipient in becoming employable. ~~((Disability lifeline))~~ Aged, blind, or disabled assistance and essential needs and housing support benefits shall not supplant cash assistance and other services provided through the temporary assistance for needy families program. To the greatest extent possible, services shall be funded through the temporary assistance for needy families appropriations.

**Sec. 32.** RCW 74.09.555 and 2010 1st sp.s. c 8 s 30 are each amended to read as follows:

(1) The department shall adopt rules and policies providing that when persons with a mental disorder, who were enrolled in medical assistance immediately prior to confinement, are released from confinement, their medical assistance coverage will be fully reinstated on the day of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law.

(2) The department, in collaboration with the Washington association of sheriffs and police chiefs, the department of corrections, and the regional support networks, shall establish procedures for coordination between department field offices, institutions for mental disease, and correctional institutions, as defined in RCW 9.94.049, that result in prompt reinstatement of eligibility and speedy eligibility determinations for persons who are likely to be eligible for medical assistance services upon release from confinement. Procedures developed under this subsection must address:

(a) Mechanisms for receiving medical assistance services applications on behalf of confined persons in anticipation of their release from confinement;

(b) Expedient review of applications filed by or on behalf of confined persons and, to the extent practicable, completion of the review before the person is released;

(c) Mechanisms for providing medical assistance services identity cards to persons eligible for medical assistance services immediately upon their release from confinement; and

(d) Coordination with the federal social security administration, through interagency agreements or otherwise, to expedite processing of applications for federal supplemental security income or social security disability benefits, including federal acceptance of applications on behalf of confined persons.

(3) Where medical or psychiatric examinations during a person's confinement indicate that the person is disabled, the correctional institution or institution for mental diseases shall provide the department with that information for purposes of making medical assistance eligibility and enrollment determinations prior to the person's release from confinement. The department shall, to the maximum extent permitted by federal law, use the examination in making its determination whether the person is disabled and eligible for medical assistance.

(4) For purposes of this section, "confined" or "confinement" means incarcerated in a correctional institution, as defined in RCW 9.94.049, or admitted to an institute for mental disease, as defined in 42 C.F.R. part 435, Sec. 1009 on July 24, 2005.

(5) For purposes of this section, "likely to be eligible" means that a person:

(a) Was enrolled in medicaid or supplemental security income or the ~~((disability lifeline))~~ medical care services program

THIRTIETH DAY, MAY 25, 2011

immediately before he or she was confined and his or her enrollment was terminated during his or her confinement; or

(b) Was enrolled in medicaid or supplemental security income or the ~~((disability lifeline))~~ medical care services program at any time during the five years before his or her confinement, and medical or psychiatric examinations during the person's confinement indicate that the person continues to be disabled and the disability is likely to last at least twelve months following release.

(6) The economic services administration shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined person who is likely to be eligible for medicaid.

**Sec. 33.** RCW 74.50.060 and 2010 1st sp.s. c 8 s 31 are each amended to read as follows:

~~((4))~~ The department shall establish a shelter assistance program to provide, within available funds, shelter for persons eligible under this chapter. "Shelter," "shelter support," or "shelter assistance" means a facility under contract to the department providing room and board in a supervised living arrangement, normally in a group or dormitory setting, to eligible recipients under this chapter. This may include supervised domiciliary facilities operated under the auspices of public or private agencies. No facility under contract to the department shall allow the consumption of alcoholic beverages on the premises. The department may contract with counties and cities for such shelter services. To the extent possible, the department shall not displace existing emergency shelter beds for use as shelter under this chapter. In areas of the state in which it is not feasible to develop shelters, due to low numbers of people needing shelter services, or in which sufficient numbers of shelter beds are not available, the department may provide shelter through an intensive protective payee program, unless the department grants an exception on an individual basis for less intense supervision.

~~((2))~~ Persons continuously eligible for the disability lifeline program since July 25, 1987, who transfer to the program established by this chapter, have the option to continue their present living situation, but only through a protective payee.)

**NEW SECTION. Sec. 34.** The following acts or parts of acts are each repealed:

(1) RCW 43.330.175 (Disability lifeline housing voucher program) and 2010 1st sp.s. c 8 s 8;

(2) RCW 74.04.120 (Basis of state's allocation of federal aid funds--County budget) and 2010 1st sp.s. c 8 s 19, 1979 c 141 s 301, & 1959 c 26 s 74.04.120; and

(3) RCW 74.04.810 (Study of disability lifeline program terminations--Report) and 2010 1st sp.s. c 8 s 11.

**NEW SECTION. Sec. 35.** The code reviser shall alphabetize the subsections containing definitions in RCW 74.04.005.

**NEW SECTION. Sec. 36.** Sections 1 through 3 and 7 of this act constitute a new chapter in Title 74 RCW.

**NEW SECTION. Sec. 37.** Section 11 of this act expires June 30, 2013.

**NEW SECTION. Sec. 38.** Except for sections 6 and 8 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**NEW SECTION. Sec. 39.** Section 6 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 22, 2011.

**NEW SECTION. Sec. 40.** Section 8 of this act takes effect November 1, 2011."

2011 1ST SPECIAL SESSION

On page 1, line 6 of the title, after "funding;" strike the remainder of the title and insert "amending RCW 74.09.035, 74.04.005, 74.09.510, 74.50.055, 70.96A.530, 10.101.010, 26.19.071, 31.04.540, 70.123.110, 73.08.005, 74.04.0052, 74.04.225, 74.04.230, 74.04.266, 74.04.620, 74.04.652, 74.04.655, 74.04.657, 74.04.770, 74.08.043, 74.08.278, 74.08.335, 74.08A.210, 74.08A.440, 74.09.555, and 74.50.060; reenacting and amending RCW 13.34.030; adding new sections to chapter 43.185C RCW; adding a new chapter to Title 74 RCW; creating a new section; repealing RCW 43.330.175, 74.04.120, and 74.04.810; providing effective dates; providing an expiration date; and declaring an emergency."

The President declared the question before the Senate to be the motion by Senator Regala to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2082.

The motion by Senator Regala carried and the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Regala moved that the following striking amendment by Senators Regala and Zarelli be adopted:

Strike everything after the enacting clause and insert the following:

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

(a) Persons who have a long-term disability and apply for federal supplemental security income benefits should receive assistance while their application for federal benefits is pending, with repayment from the federal government of state-funded income assistance paid through the aged, blind, or disabled assistance program;

(b) Persons who are incapacitated from gainful employment for an extended period, but who may not meet the level of severity of a long-term disability, are at increased risk of homelessness; and

(c) Persons who are homeless and suffering from significant medical impairments, mental illness, or chemical dependency face substantial barriers to successful participation in, and completion of, needed medical or behavioral health treatment services. Stable housing increases the likelihood of compliance with and completion of treatment.

(2) Through this act, the legislature intends to:

(a) Terminate all components of the disability lifeline program created in 2010 and codified in RCW 74.04.005 and create new programs: (i) To provide financial grants through the aged, blind, and disabled assistance program and the pregnant women assistance program; and (ii) to provide services through the essential needs and housing support program; and

(b) Increase opportunities to utilize limited public funding, combined with private charitable and volunteer efforts to serve persons who are recipients of the benefits provided by the new programs created under this act.

**NEW SECTION. Sec. 2.** Effective October 31, 2011, the disability lifeline program, as defined under chapter 74.04 RCW, is terminated and all benefits provided under that program shall expire and cease to exist.

**NEW SECTION. Sec. 3.** (1)(a) Effective November 1, 2011, the aged, blind, or disabled assistance program shall provide financial grants to persons in need who:

(i) Are not eligible to receive federal aid assistance, other than basic food benefits transferred electronically and medical assistance;

(ii) Meet the eligibility requirements of subsection (3) of this section; and

(iii) Are aged, blind, or disabled. For purposes of determining eligibility for assistance for the aged, blind, or disabled assistance program, the following definitions apply:

(A) "Aged" means age sixty-five or older.

(B) "Blind" means statutorily blind as defined for the purpose of determining eligibility for the federal supplemental security income program.

(C) "Disabled" means likely to meet the federal supplemental security income disability standard. In making this determination, the department should give full consideration to the cumulative impact of an applicant's multiple impairments, an applicant's age, and vocational and educational history.

In determining whether a person is disabled, the department may rely on the following:

(I) A previous disability determination by the social security administration or the disability determination service entity within the department; or

(II) A determination that an individual is eligible to receive optional categorically needy medicaid as a disabled person under the federal regulations at 42 C.F.R. Parts 435, Secs. 201(a)(3) and 210.

(b) The following persons are not eligible for the aged, blind, or disabled assistance program:

(i) Persons who are not able to engage in gainful employment due primarily to alcohol or drug addiction. These persons shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. This subsection may not be construed to prohibit the department from granting aged, blind, or disabled assistance benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the aged, blind, or disabled assistance program; or

(ii) Persons for whom there has been a final determination of ineligibility for federal supplemental security income benefits.

(c) Persons may receive aged, blind, or disabled assistance benefits pending application for federal supplemental security income benefits. The monetary value of any aged, blind, or disabled assistance benefit that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.

(2) Effective November 1, 2011, the pregnant women assistance program shall provide financial grants to persons who:

(a) Are not eligible to receive federal aid assistance other than basic food benefits or medical assistance; and

(b) Are pregnant and in need, based upon the current income and resource standards of the federal temporary assistance for needy families program, but are ineligible for federal temporary assistance for needy families benefits for a reason other than failure to cooperate in program requirements; and

(c) Meet the eligibility requirements of subsection (3) of this section.

(3) To be eligible for the aged, blind, or disabled assistance program under subsection (1) of this section or the pregnant women assistance program under subsection (2) of this section, a person must:

(a) Be a citizen or alien lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(b) Have furnished the department his or her social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number

shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(c) Have not refused or failed without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(d) Not have refused or failed to cooperate in obtaining federal aid assistance, without good cause.

(4) Effective November 1, 2011, referrals for essential needs and housing support under section 4 of this act shall be provided to persons found eligible for medical care services under RCW 74.09.035 who are not recipients of alcohol and addiction services provided under chapter 74.50 RCW or are not recipients of aged, blind, or disabled assistance.

(5) No person may be considered an eligible individual for benefits under this section with respect to any month if during that month the person:

(a) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or

(b) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(6) The department must review the cases of all persons, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, or recipients of aged, blind, or disabled assistance, who have received medical care services for twelve consecutive months, and at least annually after the first review, to determine whether they are eligible for the aged, blind, or disabled assistance program.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.185C RCW to read as follows:

**Grants to local governments and community-based organizations for essential needs and housing support.** (1) The department shall distribute funds for the essential needs and housing support program established under this section in a manner consistent with the requirements of this section and the biennial operating budget. The first distribution of funds must be completed by September 1, 2011. Essential needs or housing support is only for persons found eligible for such services under section 3(4) of this act and is not considered an entitlement.

(2) The department shall distribute funds appropriated for the essential needs and housing support program in the form of grants to designated essential needs support and housing support entities within each county. The department shall not distribute any funds until it approves the expenditure plan submitted by the designated essential needs support and housing support entities. The amount of funds to be distributed pursuant to this section shall be designated in the biennial operating budget. For the sole purpose of meeting the initial distribution of funds date, the department may distribute partial funds upon the department's approval of a preliminary expenditure plan. The department shall not distribute the remaining funds until it has approved a final expenditure plan.

(3)(a) During the 2011-2013 biennium, in awarding housing support that is not funded through the contingency fund in this subsection, the designated housing support entity shall provide housing support to clients who are homeless persons as defined in RCW 43.185C.010. As provided in the biennial operating budget for the 2011-2013 biennium, a contingency fund shall be used solely for those clients who are at substantial risk of losing stable housing

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

or at substantial risk of losing one of the other services defined in section 7(6) of this act. For purposes of this chapter, "substantial risk" means the client has provided documentation that he or she will lose his or her housing within the next thirty days or that the services will be discontinued within the next thirty days.

(b) After July 1, 2013, the designated housing support entity shall give first priority to clients who are homeless persons as defined in RCW 43.185C.010 and second priority to clients who would be at substantial risk of losing stable housing without housing support.

(4) For each county, the department shall designate an essential needs support entity and a housing support entity that will begin providing these supports to medical care services program recipients on November 1, 2011. Essential needs and housing support entities are not required to provide assistance to every medical care services recipient that is referred to the local entity or who meets the priority standards in subsection (3) of this section.

(a) Each designated entity must be a local government or community-based organization, and may administer the funding for essential needs support, housing support, or both. Designated entities have the authority to subcontract with qualified entities. Upon request, and the approval of the department, two or more counties may combine resources to more effectively deliver services.

(b) The department's designation process must include a review of proficiency in managing housing or human services programs when designating housing support entities.

(c) Within a county, if the department directly awards separate grants to the designated housing support entity and the designated essential needs support entity, the department shall determine the amount allocated for essential needs support as directed in the biennial operating budget.

(5)(a) Essential needs and housing support entities must use funds distributed under this section as flexibly as is practicable to provide essential needs items and housing support to recipients of the essential needs and housing support program, subject to the requirements of this section.

(b) Benefits provided under the essential needs and housing support program shall not be provided to recipients in the form of cash assistance.

(c) The appropriations by the legislature for the purposes of the essential needs and housing support program established under this section shall be based on forecasted program caseloads. The caseload forecast council shall provide a courtesy forecast of the medical care services recipient population that is homeless or is included in reporting under subsection (7)(c)(iii) of this section. The department may move funds between entities or between counties to reflect actual caseload changes. In doing so, the department must: (i) Develop a process for reviewing the caseload of designated essential needs and housing support entities, and for redistributing grant funds from those entities experiencing reduced actual caseloads to those with increased actual caseloads; and (ii) inform all designated entities of the redistribution process. Savings resulting from program caseload attrition from the essential needs and housing support program shall not result in increased per-client expenditures.

(d) Essential needs and housing support entities must partner with other public and private organizations to maximize the beneficial impact of funds distributed under this section, and should attempt to leverage other sources of public and private funds to serve essential needs and housing support recipients. Funds appropriated in the operating budget for essential needs and housing support must be used only to serve persons eligible to receive services under that program.

(6) The department shall use no more than five percent of the funds for administration of the essential needs and housing support program. Each essential needs and housing support entity shall use no more than seven percent of the funds for administrative expenses.

(7) The department shall:

(a) Require housing support entities to enter data into the homeless client management information system;

(b) Require essential needs support entities to report on services provided under this section;

(c) In collaboration with the department of social and health services, submit a report annually to the relevant policy and fiscal committees of the legislature. A preliminary report shall be submitted by December 31, 2011, and must include (c)(i), (iii), and (v) of this subsection. Annual reports must be submitted beginning December 1, 2012, and must include:

(i) A description of the actions the department has taken to achieve the objectives of this act;

(ii) The amount of funds used by the department to administer the program;

(iii) Information on the housing status of essential needs and housing support recipients served by housing support entities, and individuals who have requested housing support but did not receive housing support;

(iv) Grantee expenditure data related to administration and services provided under this section; and

(v) Efforts made to partner with other entities and leverage sources or public and private funds;

(d) Review the data submitted by the designated entities, and make recommendations for program improvements and administrative efficiencies. The department has the authority to designate alternative entities as necessary due to performance or other significant issues. Such change must only be made after consultation with the department of social and health services and the impacted entity.

(8) The department, counties, and essential needs and housing support entities are not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against them related to decisions regarding: (a) The provision or lack of provision of housing or essential needs support; or (b) the type of housing arrangement supported with funds allocated under this section, when the decision was made in good faith and in the performance of the powers and duties under this section. However, this section does not prohibit legal actions against the department, county, or essential needs or housing support entity to enforce contractual duties or obligations.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.185C RCW to read as follows:

The department, in collaboration with the department of social and health services, shall develop a mechanism through which the department and local governments or community-based organizations can verify a person has been determined eligible and remains eligible for medical care services under RCW 74.09.035 by the department of social and health services.

**Sec. 6.** RCW 74.09.035 and 2011 c 284 s 3 are each amended to read as follows:

(1) To the extent of available funds, medical care services may be provided to ((recipients of disability lifeline benefits, persons denied disability lifeline benefits under RCW 74.04.005(5)(b) or 74.04.655 who otherwise meet the requirements of RCW 74.04.005(5)(a), and recipients of alcohol and drug addiction services provided under chapter 74.50 RCW, in accordance with medical eligibility requirements established by the department.));

(a) Persons who:

(i) Are incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of

ninety days as determined by the department. The standard for incapacity in this subsection, as evidenced by the ninety-day duration standard, is not intended to be as stringent as federal supplemental security income disability standards:

(ii) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(iii) Have furnished the department their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(iv) Have countable income as described in RCW 74.04.005 at or below four hundred twenty-eight dollars for a married couple or at or below three hundred thirty-nine dollars for a single individual; and

(v) Do not have countable resources in excess of those described in RCW 74.04.005.

(b) Persons eligible for the aged, blind, or disabled assistance program authorized in section 3 of this act and who are not eligible for medicaid under RCW 74.09.510.

(c) Persons eligible for alcohol and drug addiction services provided under chapter 74.50 RCW, in accordance with medical eligibility requirements established by the department.

(d) The following persons are not eligible for medical care services:

(i) Persons who are unemployable due primarily to alcohol or drug addiction, except as provided in (c) of this subsection. These persons shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. This subsection shall not be construed to prohibit the department from granting medical care services benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for medical care services;

(ii) Persons who refuse or fail to cooperate in obtaining federal aid assistance, without good cause;

(iii) Persons who refuse or fail without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(iv) Persons who are fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or who are violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(e) For purposes of determining whether a person is incapacitated from gainful employment under (a) of this subsection:

(i) The department shall adopt by rule medical criteria for incapacity determinations to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information; and

(ii) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(f) For purposes of reviewing a person's continuing eligibility

and in order to remain eligible for the program, persons who have been found to have an incapacity from gainful employment must demonstrate that there has been no material improvement in their medical or mental health condition. The department may discontinue benefits when there was specific error in the prior determination that found the person eligible by reason of incapacitation.

(2) Enrollment in medical care services may not result in expenditures that exceed the amount that has been appropriated in the operating budget. If it appears that continued enrollment will result in expenditures exceeding the appropriated level for a particular fiscal year, the department may freeze new enrollment and establish a waiting list of ((eligible)) persons who may receive benefits only when sufficient funds are available. ((Upon implementation of a federal medicaid 1115 waiver providing federal matching funds for medical care services, persons subject to termination of disability lifeline benefits under RCW 74.04.005(5)(h) remain enrolled in medical care services and persons subject to denial of disability lifeline benefits under RCW 74.04.005(5)(h) remain eligible for medical care services.

—(2)) (3) Determination of the amount, scope, and duration of medical care services shall be limited to coverage as defined by the department, except that adult dental, and routine foot care shall not be included unless there is a specific appropriation for these services.

((3)) (4) The department shall enter into performance-based contracts with one or more managed health care systems for the provision of medical care services ((to recipients of disability lifeline benefits)) under this section. The contract must provide for integrated delivery of medical and mental health services.

((4)) (5) The department shall establish standards of assistance and resource and income exemptions, which may include deductibles and co- insurance provisions. In addition, the department may include a prohibition against the voluntary assignment of property or cash for the purpose of qualifying for assistance.

((5)) (6) Residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for persons with intellectual disabilities, as that term is described by federal law, who are eligible for medical care services shall be provided medical services to the same extent as provided to those persons eligible under the medical assistance program.

((6) Eligibility for medical care services shall commence with the date of certification for disability lifeline benefits or the date of eligibility for alcohol and drug addiction services provided under chapter 74.50 RCW.)

(7) Eligibility for medical care services shall commence with the date of certification for medical care services, date of eligibility for the aged, blind, or disabled assistance program provided under section 3 of this act, or the date of eligibility for alcohol and drug addiction services provided under chapter 74.50 RCW.

NEW SECTION. Sec. 7. For the purposes of this chapter, unless the context indicates otherwise, the following definitions shall apply:

(1) "Aged, blind, and disabled assistance program" means the program established under section 3 of this act.

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

(3) "Director" or "secretary" means the secretary of social and health services.

(4) "Essential needs and housing support program" means the program established under section 4 of this act.

(5) "Essential needs support" means personal health and hygiene items, cleaning supplies, other necessary items and transportation passes or tokens provided through an essential needs support entity established under section 4 of this act.



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(6) "Housing support" means assistance provided by a designated housing support entity established under section 4 of this act to maintain existing housing when the client is at substantial risk of becoming homeless, to obtain housing, or to obtain heat, electricity, natural gas, sewer, garbage, and water services when the client is at substantial risk of losing these services.

(7) "Pregnant women assistance program" means the program established under section 3 of this act.

(8) In the construction of words and phrases used in this chapter, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders, and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

**Sec. 8.** RCW 74.04.005 and 2010 1st sp.s. c 8 s 4 are each amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance" ~~((--))~~ means public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act, and federal aid assistance.

(2) "Department" ~~((--))~~ means the department of social and health services.

(3) "County or local office" ~~((--))~~ means the administrative office for one or more counties or designated service areas.

(4) "Director" or "secretary" means the secretary of social and health services.

(5) "~~((Disability lifeline))~~ Essential needs and housing support program" means ~~((a program that provides aid and support in accordance with the conditions set out in this subsection.~~

(a) Aid and assistance shall be provided to persons who are not eligible to receive federal aid assistance, other than basic food benefits transferred electronically and medical assistance and meet one of the following conditions:

(i) Are pregnant and in need, based upon the current income and resource requirements of the federal temporary assistance for needy families program; or

(ii) Are incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department. The standard for incapacity in this subsection, as evidenced by the ninety-day duration standard, is not intended to be as stringent as federal supplemental security income disability standards; and

(A) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(B) Have furnished the department their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(C) Have not refused or failed without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(D) Have not refused or failed without good cause to participate in vocational rehabilitation services, if an assessment conducted under RCW 74.04.655 indicates that the person might benefit from

such services. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in vocational rehabilitation services, or when vocational rehabilitation services are not available to the person in the county of his or her residence.

(b)(i) Persons who initially apply and are found eligible for disability lifeline benefits based upon incapacity from gainful employment under (a) of this subsection on or after September 2, 2010, who are homeless and have been assessed as needing chemical dependency or mental health treatment or both, must agree, as a condition of eligibility for the disability lifeline program, to accept a housing voucher in lieu of a cash grant if a voucher is available. The department shall establish the dollar value of the housing voucher. The dollar value of the housing voucher may differ from the value of the cash grant. Persons receiving a housing voucher under this subsection also shall receive a cash stipend of fifty dollars per month.

(ii) If the department of commerce has determined under RCW 43.330.175 that sufficient housing is not available, persons described in this subsection who apply for disability lifeline benefits during the time period that housing is not available shall receive a cash grant in lieu of a cash stipend and housing voucher.

(iii) Persons who refuse to accept a housing voucher under this subsection but otherwise meet the eligibility requirements of (a) of this subsection are eligible for medical care services benefits under RCW 74.09.035, subject to the time limits in (h) of this subsection.

(c) The following persons are not eligible for the disability lifeline program:

(i) Persons who are unemployable due primarily to alcohol or drug addiction. These persons shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. This subsection shall not be construed to prohibit the department from granting disability lifeline benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the disability lifeline program;

(ii) Persons who refuse or fail to cooperate in obtaining federal aid assistance, without good cause.

(d) Disability lifeline benefits shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in (a) of this subsection, and who will accept available services that can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(e) Persons who are likely eligible for federal supplemental security income benefits shall be moved into the disability lifeline expedited component of the disability lifeline program. Persons placed in the expedited component of the program may, if otherwise eligible, receive disability lifeline benefits pending application for federal supplemental security income benefits. The monetary value of any disability lifeline benefit that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.

(f) For purposes of determining whether a person is

incapacitated from gainful employment under (a) of this subsection:

(i) The department shall adopt by rule medical criteria for disability lifeline incapacity determinations to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information; and

(ii) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(g) Persons receiving disability lifeline benefits based upon a finding of incapacity from gainful employment who remain otherwise eligible shall have their benefits discontinued unless the recipient demonstrates no material improvement in their medical or mental health condition. The department may discontinue benefits when there was specific error in the prior determination that found the person eligible by reason of incapacitation.

(h)(i) Beginning September 1, 2010, no person who is currently receiving or becomes eligible for disability lifeline program benefits shall be eligible to receive benefits under the program for more than twenty-four months in a sixty-month period. For purposes of this subsection, months of receipt of general assistance-unemployable benefits count toward the twenty-four month limit. Months during which a person received benefits under the expedited component of the disability lifeline or general assistance program or under the aged, blind, or disabled component of the disability lifeline or general assistance program shall not be included when determining whether a person has been receiving benefits for more than twenty-four months. On or before July 1, 2010, the department must review the cases of all persons who have received disability lifeline benefits or general assistance unemployable benefits for at least twenty months as of that date. On or before September 1, 2010, the department must review the cases of all remaining persons who have received disability lifeline benefits for at least twelve months as of that date. The review should determine whether the person meets the federal supplemental security income disability standard and, if the person does not meet that standard, whether the receipt of additional services could lead to employability. If a need for additional services is identified, the department shall provide case management services, such as assistance with arranging transportation or locating stable housing, that will facilitate the person's access to needed services. A person may not be determined ineligible due to exceeding the time limit unless he or she has received a case review under this subsection finding that the person does not meet the federal supplemental security income disability standard.

(ii) The time limits established under this subsection expire June 30, 2013.

(i) No person may be considered an eligible individual for disability lifeline benefits with respect to any month if during that month the person:

(i) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or

(ii) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction)) the program established in section 4 of this act.

(6) ("Disability lifeline expedited" means a component of the disability lifeline program under which persons receiving disability lifeline benefits have been determined, after examination by an appropriate health care provider, to be likely to be eligible for federal supplemental security income benefits based on medical and behavioral health evidence that meets the disability standards used for the federal supplemental security income program.

(7))) "Aged, blind, or disabled assistance program" means the program established under section 3 of this act.

(7) "Federal aid assistance"((-)) means the specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(8) "Applicant"((-)) means any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(9) "Recipient"((-)) means any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(10) "Standards of assistance"((-)) means the level of income required by an applicant or recipient to maintain a level of living specified by the department.

(11) "Resource"((-)) means any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent. The department may by rule designate resources that an applicant may retain and not be ineligible for public assistance because of such resources. Exempt resources shall include, but are not limited to:

(a) A home that an applicant, recipient, or their dependents is living in, including the surrounding property;

(b) Household furnishings and personal effects;

(c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed five thousand dollars;

(d) A motor vehicle necessary to transport a household member with a physical disability. This exclusion is limited to one vehicle per person with a physical disability;

(e) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance. The department shall also allow recipients of temporary assistance for needy families to exempt savings accounts with combined balances of up to an additional three thousand dollars;

(f) Applicants for or recipients of (~~disability lifeline~~) benefits under sections 3 and 4 of this act shall have their eligibility based on resource limitations consistent with the temporary assistance for needy families program rules adopted by the department; and

(g) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance for a period not to exceed nine months from the date the agreement is signed pursuant to this section to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property(~~(- PROVIDED, That)~~) if:

(A) The applicant or recipient signs an agreement to repay the lesser of the amount of aid received or the net proceeds of such sale;

(B) If the owner of the excess property ceases to make good faith efforts to sell the property, the entire amount of assistance may become an overpayment and a debt due the state and may be recovered pursuant to RCW 43.20B.630;

(C) Applicants and recipients are advised of their right to a fair hearing and afforded the opportunity to challenge a decision that

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

good faith efforts to sell have ceased, prior to assessment of an overpayment under this section; and

(D) At the time assistance is authorized, the department files a lien without a sum certain on the specific property.

(12) "Income"((-)) means:

(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance. The department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him or her to decrease his or her need for public assistance or to aid in rehabilitating him or her or his or her dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance. In addition, for cash assistance the department may disregard income pursuant to RCW 74.08A.230 and 74.12.350.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(13) "Need"((-)) means the difference between the applicant's or recipient's standards of assistance for himself or herself and the dependent members of his or her family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his or her family.

(14) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

(15) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders, and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

**Sec. 9.** RCW 74.09.510 and 2010 c 94 s 24 are each amended to read as follows:

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

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

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

(3) Individuals who:

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

(b) On or after July 22, 2007, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state; and

(c) On their eighteenth birthday, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state;

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

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

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

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

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

(9) Other individuals eligible for medical services under RCW 74.09.035 based on age, blindness, or disability and income and resources standards for medical care services and 74.09.700 for whom federal financial participation is available under Title XIX of the social security act;

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

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

**Sec. 10.** RCW 74.50.055 and 1989 1st ex.s. c 18 s 4 are each amended to read as follows:

(1) A person shall not be eligible for treatment services under this chapter unless he or she:

(a) Meets the ~~((financial))~~ income and resource eligibility requirements ~~((contained in RCW 74.04.005))~~ for the medical care services program under RCW 74.09.035(1)(a)(iv) and (v); and

(b) Is incapacitated from gainful employment, which incapacity will likely continue for a minimum of sixty days.

(2) First priority for receipt of treatment services shall be given to pregnant women and parents of young children.

(3) In order to rationally allocate treatment services, the department may establish by rule caseload ceilings and additional eligibility criteria, including the setting of priorities among classes of persons for the receipt of treatment services. Any such rules shall be consistent with any conditions or limitations contained in any appropriations for treatment services.

**Sec. 11.** RCW 70.96A.530 and 2010 1st sp.s. c 8 s 10 are each amended to read as follows:

If an assessment by a certified chemical dependency counselor indicates a need for drug or alcohol treatment, in order to enable a person receiving ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act to improve his or her health status and transition from ~~((disability lifeline))~~ those benefits to employment, or transition to federal disability benefits, the person must be given high priority for enrollment in treatment, within funds appropriated for that treatment. However, first priority for receipt of treatment services must be given to pregnant women and parents of young children. This section expires June 30, 2013. ~~((Persons who are terminated from disability lifeline benefits under RCW 74.04.005(S)(h) and are actively engaged in chemical dependency treatment during the month they are terminated shall be provided the opportunity to complete their current course of treatment.))~~

**Sec. 12.** RCW 10.101.010 and 2010 1st sp.s. c 8 s 12 are each amended to read as follows:

The following definitions shall be applied in connection with this chapter:

(1) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((disability-lifetime))~~ aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the current federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(2) "Indigent and able to contribute" means a person who, at any stage of a court proceeding, is unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are less than the anticipated cost of counsel but sufficient for the person to pay a portion of that cost.

(3) "Anticipated cost of counsel" means the cost of retaining private counsel for representation on the matter before the court.

(4) "Available funds" means liquid assets and disposable net monthly income calculated after provision is made for bail obligations. For the purpose of determining available funds, the following definitions shall apply:

(a) "Liquid assets" means cash, savings accounts, bank accounts, stocks, bonds, certificates of deposit, equity in real estate, and equity in motor vehicles. A motor vehicle necessary to maintain employment and having a market value not greater than three thousand dollars shall not be considered a liquid asset.

(b) "Income" means salary, wages, interest, dividends, and other earnings which are reportable for federal income tax purposes, and cash payments such as reimbursements received from pensions, annuities, social security, and public assistance programs. It includes any contribution received from any family member or other person who is domiciled in the same residence as the defendant and who is helping to defray the defendant's basic living costs.

(c) "Disposable net monthly income" means the income remaining each month after deducting federal, state, or local income taxes, social security taxes, contributory retirement, union dues, and basic living costs.

(d) "Basic living costs" means the average monthly amount spent by the defendant for reasonable payments toward living costs, such as shelter, food, utilities, health care, transportation, clothing, loan payments, support payments, and court-imposed obligations.

**Sec. 13.** RCW 13.34.030 and 2011 c 330 s 3 and 2011 c 309 s 22 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," "juvenile," and "youth" means:

(a) Any individual under the age of eighteen years; or

(b) Any individual age eighteen to twenty-one years who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains

dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

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

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(11) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(12) "Indigent" means a person who, at any stage of a court proceeding, is:

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((disability lifeline))~~ aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(13) "Out-of-home care" means 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) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child.

(15) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(16) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in ~~((section 4 of this act))~~ RCW 13.--- (section 4, chapter 309, Laws of 2011).

(17) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(18) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or 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 RCW 74.13.020.

(19) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031.

**Sec. 14.** RCW 26.19.071 and 2010 1st sp.s. c 8 s 14 are each amended to read as follows:

(1) **Consideration of all income.** All income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent. Only the income of the parents of the children whose support is at issue shall be calculated for purposes of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation.

(2) **Verification of income.** Tax returns for the preceding two years and current paystubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs.

(3) **Income sources included in gross monthly income.** Except as specifically excluded in subsection (4) of this section, monthly gross income shall include income from any source, including:

- (a) Salaries;
- (b) Wages;
- (c) Commissions;
- (d) Deferred compensation;
- (e) Overtime, except as excluded for income in subsection (4)((~~h~~)) (i) of this section;
- (f) Contract-related benefits;
- (g) Income from second jobs, except as excluded for income in subsection (4)((~~h~~)) (i) of this section;
- (h) Dividends;
- (i) Interest;
- (j) Trust income;
- (k) Severance pay;
- (l) Annuities;
- (m) Capital gains;
- (n) Pension retirement benefits;
- (o) Workers' compensation;
- (p) Unemployment benefits;
- (q) Maintenance actually received;
- (r) Bonuses;
- (s) Social security benefits;
- (t) Disability insurance benefits; and

(u) Income from self-employment, rent, royalties, contracts, proprietorship of a business, or joint ownership of a partnership or closely held corporation.

(4) **Income sources excluded from gross monthly income.** The following income and resources shall be disclosed but shall not be included in gross income:

- (a) Income of a new spouse or new domestic partner or income of other adults in the household;
- (b) Child support received from other relationships;
- (c) Gifts and prizes;
- (d) Temporary assistance for needy families;
- (e) Supplemental security income;
- (f) ~~((Disability lifeline))~~ Aged, blind, or disabled assistance benefits;
- (g) Pregnant women assistance benefits;
- (h) Food stamps; and

~~((h))~~ (i) Overtime or income from second jobs beyond forty hours per week averaged over a twelve-month period worked to provide for a current family's needs, to retire past relationship debts,

or to retire child support debt, when the court finds the income will cease when the party has paid off his or her debts.

Receipt of income and resources from temporary assistance for needy families, supplemental security income, ~~((disability-lifeline))~~ aged, blind, or disabled assistance benefits, and food stamps shall not be a reason to deviate from the standard calculation.

(5) **Determination of net income.** The following expenses shall be disclosed and deducted from gross monthly income to calculate net monthly income:

- (a) Federal and state income taxes;
- (b) Federal insurance contributions act deductions;
- (c) Mandatory pension plan payments;
- (d) Mandatory union or professional dues;
- (e) State industrial insurance premiums;
- (f) Court-ordered maintenance to the extent actually paid;

(g) Up to five thousand dollars per year in voluntary retirement contributions actually made if the contributions show a pattern of contributions during the one-year period preceding the action establishing the child support order unless there is a determination that the contributions were made for the purpose of reducing child support; and

(h) Normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about which there is disagreement.

Items deducted from gross income under this subsection shall not be a reason to deviate from the standard calculation.

(6) **Imputation of income.** The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for an unemployable parent. Income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. In the absence of records of a parent's actual earnings, the court shall impute a parent's income in the following order of priority:

- (a) Full-time earnings at the current rate of pay;
- (b) Full-time earnings at the historical rate of pay based on reliable information, such as employment security department data;
- (c) Full-time earnings at a past rate of pay where information is incomplete or sporadic;
- (d) Full-time earnings at minimum wage in the jurisdiction where the parent resides if the parent has a recent history of minimum wage earnings, is recently coming off public assistance, ~~((disability-lifeline))~~ aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential needs and housing support, supplemental security income, or disability, has recently been released from incarceration, or is a high school student;
- (e) Median net monthly income of year-round full-time workers as derived from the United States bureau of census, current population reports, or such replacement report as published by the bureau of census.

**Sec. 15.** RCW 31.04.540 and 2010 1st sp.s. c 8 s 15 are each amended to read as follows:

(1) To the extent that implementation of this section does not conflict with federal law resulting in the loss of federal funding, proprietary reverse mortgage loan advances made to a borrower must be treated as proceeds from a loan and not as income for the

purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(2) Undisbursed reverse mortgage funds must be treated as equity in the borrower's home and not as proceeds from a loan, resources, or assets for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(3) This section applies to any law or program relating to payments, allowances, benefits, or services provided on a means-tested basis by this state including, but not limited to, optional state supplements to the federal supplemental security income program, low-income energy assistance, property tax relief, ~~((disability-lifeline-benefits))~~ aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential needs and housing support, and medical assistance only to the extent this section does not conflict with Title 19 of the federal social security act.

**Sec. 16.** RCW 70.123.110 and 2010 1st sp.s. c 8 s 16 are each amended to read as follows:

~~((Disability-lifeline))~~ Aged, blind, or disabled assistance benefits, essential needs and housing support benefits, pregnant women assistance benefits, or temporary assistance for needy families payments shall be made to otherwise eligible individuals who are residing in a secure shelter, a housing network or other shelter facility which provides shelter services to persons who are victims of domestic violence. Provisions shall be made by the department for the confidentiality of the shelter addresses where victims are residing.

**Sec. 17.** RCW 73.08.005 and 2010 1st sp.s. c 8 s 17 are each amended to read as follows:

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

(1) "Direct costs" includes those allowable costs that can be readily assigned to the statutory objectives of this chapter, consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(2) "Family" means the spouse or domestic partner, surviving spouse, surviving domestic partner, and dependent children of a living or deceased veteran.

(3) "Indigent" means a person who is defined as such by the county legislative authority using one or more of the following definitions:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((disability-lifeline))~~ aged, blind, or disabled assistance benefits, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, medical care services, or supplemental security income;

(b) Receiving an annual income, after taxes, of up to one hundred fifty percent or less of the current federally established poverty level, or receiving an annual income not exceeding a higher qualifying income established by the county legislative authority; or

(c) Unable to pay reasonable costs for shelter, food, utilities, and transportation because his or her available funds are insufficient.

(4) "Indirect costs" includes those allowable costs that are generally associated with carrying out the statutory objectives of this chapter, but the identification and tracking of those costs cannot be readily assigned to a specific statutory objective without an accounting effort that is disproportionate to the benefit received. A county legislative authority may allocate allowable indirect costs to its veterans' assistance fund if it is accomplished in a manner consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(5) "Veteran" has the same meaning as defined in RCW 41.04.005 and 41.04.007, and includes a current member of the

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

national guard or armed forces reserves who has been deployed to serve in an armed conflict.

(6) "Veterans' advisory board" means a board established by a county legislative authority under the authority of RCW 73.08.035.

(7) "Veterans' assistance fund" means an account in the custody of the county auditor, or the chief financial officer in a county operating under a charter, that is funded by taxes levied under the authority of RCW 73.08.080.

(8) "Veterans' assistance program" means a program approved by the county legislative authority under the authority of RCW 73.08.010 that is fully or partially funded by the veterans' assistance fund authorized by RCW 73.08.080.

**Sec. 18.** RCW 74.04.0052 and 2010 1st sp.s. c 8 s 18 are each amended to read as follows:

(1) The department shall determine, after consideration of all relevant factors and in consultation with the applicant, the most appropriate living situation for applicants under eighteen years of age, unmarried, and pregnant who are eligible for ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act. An appropriate living situation shall include a place of residence that is maintained by the applicant's parents, parent, legal guardian, or other adult relative as their or his or her own home and that the department finds would provide an appropriate supportive living arrangement. It also includes a living situation maintained by an agency that is licensed under chapter 74.15 RCW that the department finds would provide an appropriate supportive living arrangement. Grant assistance shall not be provided under this chapter if the applicant does not reside in the most appropriate living situation, as determined by the department.

(2) A pregnant minor residing in the most appropriate living situation, as provided under subsection (1) of this section, is presumed to be unable to manage adequately the funds paid to the minor or on behalf of the dependent child or children and, unless the minor provides sufficient evidence to rebut the presumption, shall be subject to the protective payee requirements provided for under RCW 74.12.250 and 74.08.280.

(3) The department shall consider any statements or opinions by either parent of the unmarried minor parent or pregnant minor applicant as to an appropriate living situation for the minor, whether in the parental home or other situation. If the parents or a parent of the minor request, they or he or she shall be entitled to a hearing in juvenile court regarding designation of the parental home or other relative placement as the most appropriate living situation for the pregnant or parenting minor.

The department shall provide the parents or parent with the opportunity to make a showing that the parental home, or home of the other relative placement, is the most appropriate living situation. It shall be presumed in any administrative or judicial proceeding conducted under this subsection that the parental home or other relative placement requested by the parents or parent is the most appropriate living situation. This presumption is rebuttable.

(4) In cases in which the minor is unmarried and unemployed, the department shall, as part of the determination of the appropriate living situation, provide information about adoption including referral to community-based organizations providing counseling.

(5) For the purposes of this section, "most appropriate living situation" shall not include a living situation including an adult male who fathered the qualifying child and is found to meet the elements of rape of a child as set forth in RCW 9A.44.079.

**Sec. 19.** RCW 74.04.225 and 2010 1st sp.s. c 8 s 2 are each amended to read as follows:

(1) An online opportunity portal shall be established to provide the public with more effective access to available state, federal, and local services. The secretary of the department of social and health services shall act as the executive branch sponsor of the portal

planning process. Under the leadership of the secretary, the department shall:

(a) Identify and select an appropriate solution and acquisition approach to integrate technology systems to create a user-friendly electronic tool for Washington residents to apply for benefits;

(b) Facilitate the adaptation of state information technology systems to allow applications generated through the opportunity portal and other compatible electronic application systems to seamlessly link to appropriate state information systems;

(c) Ensure that the portal provides access to a broad array of state, federal, and local services, including but not limited to: Health care services, higher education financial aid, tax credits, civic engagement, nutrition assistance, energy assistance, family support, and ~~((disability lifeline benefits))~~ the programs under sections 3 and 4 of this act and as defined in RCW 10.101.010, 13.34.030, ~~((43.330.175,))~~ 70.96A.530, 74.04.005, 74.04.652, 74.04.655, 74.04.657, and ~~((74.04.810))~~ sections 1 through 3 and 7 of this act;

(d) Design an implementation strategy for the portal that maximizes collaboration with community-based organizations to facilitate its use by low-income individuals and families;

(e) Provide access to the portal at a wide array of locations including but not limited to: Community or technical colleges, community college campuses where community service offices are colocated, community-based organizations, libraries, churches, food banks, state agencies, early childhood education sites, and labor unions;

(f) Ensure project resources maximize available federal and private funds for development and initial operation of the opportunity portal. Any incidental costs to state agencies shall be derived from existing resources. This subsection does not obligate or preclude the appropriation of future state funding for the opportunity portal;

(g) Determine the solution and acquisition approach by June 1, 2010.

(2) By December 1, 2011, and annually thereafter, the department of social and health services shall report to the legislature and governor. The report shall include data and information on implementation and outcomes of the opportunity portal, including any increases in the use of public benefits and increases in federal funding.

(3) The department shall develop a plan for implementing paperless application processes for the services included in the opportunity portal for which the electronic exchange of application information is possible. The plan should include a goal of achieving, to the extent possible, the transition of these services to paperless application processes by July 1, 2012. The plan must comply with federal statutes and regulations and must allow applicants to submit applications by alternative means to ensure that access to benefits will not be restricted.

(4) To the extent that the department enters into a contractual relationship to accomplish the purposes of this section, such contract or contracts shall be performance-based.

**Sec. 20.** RCW 74.04.230 and 2010 1st sp.s. c 8 s 20 are each amended to read as follows:

Persons eligible for ~~((disability lifeline))~~ medical care services benefits are eligible for mental health services to the extent that they meet the client definitions and priorities established by chapter 71.24 RCW.

**Sec. 21.** RCW 74.04.266 and 2010 1st sp.s. c 8 s 21 are each amended to read as follows:

In determining need for ~~((disability lifeline benefits))~~ aged, blind, or disabled assistance, and medical care services, the department may by rule and regulation establish a monthly earned income exemption in an amount not to exceed the exemption

allowable under disability programs authorized in Title XVI of the federal social security act.

**Sec. 22.** RCW 74.04.620 and 2010 1st sp.s. c 8 s 22 are each amended to read as follows:

(1) The department is authorized to establish a program of state supplementation to the national program of supplemental security income consistent with Public Law 92-603 and Public Law 93-66 to those persons who are in need thereof in accordance with eligibility requirements established by the department.

(2) The department is authorized to establish reasonable standards of assistance and resource and income exemptions specifically for such program of state supplementation which shall be consistent with the provisions of the Social Security Act.

(3) The department is authorized to make payments to applicants for supplemental security income, pursuant to agreements as provided in Public Law 93-368, who are otherwise eligible for ~~((disability-lifeline-benefits))~~ aged, blind, or disabled assistance.

(4) Any agreement between the department and a supplemental security income applicant providing for the reimbursement of interim assistance to the department shall provide, if the applicant has been represented by an attorney, that twenty-five percent of the reimbursement received shall be withheld by the department and all or such portion thereof as has been approved as a fee by the United States department of health and human services shall be released directly to the applicant's attorney. The secretary may maintain such records as are deemed appropriate to measure the cost and effectiveness of such agreements and may make recommendations concerning the continued use of such agreements to the legislature.

**Sec. 23.** RCW 74.04.652 and 2010 1st sp.s. c 8 s 7 are each amended to read as follows:

(1) To ensure that persons who are likely eligible for supplemental security income benefits are transitioned from ~~((disability-lifeline-benefits-to-disability-lifeline-expedited))~~ the medical care services program to the aged, blind, or disabled assistance program, and the medicaid program, and then to the supplemental security income program as quickly as practicable, the department shall implement the early supplemental security income transition project starting in King, Pierce, and Spokane counties no later than July 1, 2010, and extending statewide no later than October 1, 2011. The program shall be implemented through performance-based contracts with managed health care systems providing medical care services under RCW 74.09.035 or other qualified entities. The participants shall have the following responsibilities and duties under this program:

(a) The entities with whom the department contracts to provide the program shall be responsible for:

(i) Systematically screening persons receiving ~~((disability-lifeline))~~ benefits under section 6 of this act at the point of eligibility determination or shortly thereafter to determine if the persons should be referred for medical or behavioral health evaluations to determine whether they are likely eligible for supplemental security income;

(ii) Immediately sharing the results of the disability screening with the department;

(iii) Managing ~~((disability-lifeline))~~ medical care services and aged, blind, or disabled assistance incapacity evaluation examinations to provide timely access to needed medical and behavioral health evaluations and standardizing health care providers' conduct of incapacity evaluations. To maximize the timeliness and efficiency of incapacity evaluation examinations, the department must strongly consider contracting with a managed health care system with a network of health care providers that are trained and have agreed to conduct ~~((disability-lifeline))~~ aged, blind, or disabled medical and psychological incapacity and recertification exams. The department may obtain medical evidence and other

relevant information from sources other than the contracted entity if such evidence is available at the time of a person's application for ~~((disability-lifeline))~~ aged, blind, or disabled benefits and is sufficient to support a determination that the person is incapacitated;

(iv) Maintaining a centralized appointment and clinical data system; and

(v) Assisting persons receiving ~~((disability-lifeline-benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, with obtaining additional medical or behavioral health examinations needed to meet the disability standard for federal supplemental security income benefits and with submission of applications for supplemental security income benefits.

(b) The department shall be responsible for:

(i) Determining incapacity and eligibility for ~~((disability-lifeline))~~ benefits under sections 3 and 4 of this act;

(ii) Making timely determinations that a person receiving ~~((disability-lifeline-benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, is likely eligible for supplemental security income based on medical evidence and other relevant information provided by a contracted entity, and immediately referring such persons to a contracted entity for services;

(iii) Developing standardized procedures for sharing data and information with the contracted entities to ensure timely identification of clients who have not been transferred to the ~~((disability-lifeline-expedited))~~ aged, blind, or disabled assistance program within four months of their date of application, but who may, upon further review, be appropriately transferred to that program;

(iv) Providing case management, in partnership with the managed health care system or contracted entity, to support persons' transition to federal supplemental security income and medicaid benefits; and

(v) Identifying a savings determination methodology, in consultation with the contracted entities, the office of financial management, and the legislature, on or before implementation of the project.

(2) Early supplemental security income transition project contracts shall include the following performance goals:

(a) Persons receiving ~~((disability-lifeline-benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, should be screened within thirty days of entering the program to determine the propriety of their transfer to the ~~((disability-lifeline-expedited))~~ aged, blind, or disabled assistance program; and

(b) Seventy-five percent of persons receiving ~~((disability-lifeline-benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, that appear likely to qualify for supplemental security income benefits shall be transferred to the ~~((disability-lifeline-expedited))~~ aged, blind, or disabled assistance program within four months of their application for ~~((disability-lifeline))~~ aged, blind, or disabled benefits.

(3) The initial focus of the efforts of the early supplemental security income transition project shall be on persons who have been receiving ~~((disability-lifeline-or-general-assistance-unemployable-benefits))~~ medical care services, except recipients of alcohol and addiction treatment under chapter 74.50 RCW or aged, blind, or disabled assistance, for twelve or more months ~~((as of September 1, 2010))~~.

(4) No later than December 1, 2011, the department shall report to the governor and appropriate policy and fiscal committees on whether the early supplemental security income transition project performance goals in subsection (2) of this section were met, including the reasons those goals were or were not met.



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(5) Pursuant to RCW 41.06.142(3), performance-based contracting under this section is expressly mandated by the legislature and is not subject to the processes set forth in RCW 41.06.142 (1), (4), and (5).

The statewide expansion of the program under this section shall be considered expressly mandated by the legislature and not be subject to the provisions of RCW 41.06.142 (1), (4), and (5).

**Sec. 24.** RCW 74.04.655 and 2010 1st sp.s. c 8 s 5 are each amended to read as follows:

(1) The economic services administration shall work jointly with the division of vocational rehabilitation to develop an assessment tool that must be used to determine whether the programs offered by the division of vocational rehabilitation could assist persons receiving ~~((disability-lifetime))~~ benefits under sections 3 and 4 of this act in returning to the workforce. The assessment tool shall be completed no later than December 1, 2010. The economic services administration shall begin using the tool no later than January 1, 2011. No later than December 30, 2011, the department shall report on the use of the tool and to what extent the programs offered by the division of vocational rehabilitation have been successful in returning persons receiving ~~((disability-lifetime))~~ aged, blind, or disabled benefits to the workforce.

(2) After January 1, 2011, all persons receiving ~~((disability-lifetime))~~ benefits under sections 3 and 5 of this act shall be assessed to determine whether they would likely benefit from a program offered by the division of vocational rehabilitation. If the assessment indicates that the person might benefit, the economic services administration shall make a referral to the division of vocational rehabilitation. If the person is found eligible for a program with the division of vocational rehabilitation, he or she must participate in that program to remain eligible for the monthly stipend and housing voucher or a cash grant. If the person refuses to participate or does not complete the program, the department shall terminate the cash stipend and housing voucher or cash grant but may not terminate medical coverage and food benefits.

**Sec. 25.** RCW 74.04.657 and 2010 1st sp.s. c 8 s 6 are each amended to read as follows:

During the application process for ~~((disability-lifetime))~~ benefits under sections 3 and 4 of this act, the department shall inquire of each applicant whether he or she has ever served in the United States military service. If the applicant answers in the affirmative, the department shall confer with a veterans benefit specialist with the Washington state department of veterans affairs or a contracted veterans service officer in the community to determine whether the applicant is eligible for any benefits or programs offered to veterans by either the state or the federal government.

**Sec. 26.** RCW 74.04.770 and 2010 1st sp.s. c 8 s 23 are each amended to read as follows:

The department shall establish consolidated standards of need each fiscal year which may vary by geographical areas, program, and family size, for temporary assistance for needy families, refugee assistance, supplemental security income, and ~~((disability-lifetime))~~ benefits under section 3 of this act. Standards for temporary assistance for needy families, refugee assistance, and ~~((disability-lifetime))~~ benefits under section 3 of this act shall be based on studies of actual living costs and generally recognized inflation indices and shall include reasonable allowances for shelter, fuel, food, transportation, clothing, household maintenance and operations, personal maintenance, and necessary incidentals. The standard of need may take into account the economies of joint living arrangements, but unless explicitly required by federal statute, there shall not be proration of any portion of assistance grants unless the amount of the grant standard is equal to the standard of need.

The department is authorized to establish rateable reductions and grant maximums consistent with federal law.

Payment level will be equal to need or a lesser amount if rateable reductions or grant maximums are imposed. In no case shall a recipient of supplemental security income receive a state supplement less than the minimum required by federal law.

The department may establish a separate standard for shelter provided at no cost.

**Sec. 27.** RCW 74.08.043 and 2010 1st sp.s. c 8 s 24 are each amended to read as follows:

In determining the living requirements of otherwise eligible applicants and recipients of supplemental security income and ~~((disability-lifetime))~~ benefits under sections 3 and 4 of this act, the department is authorized to consider the need for personal and special care and supervision due to physical and mental conditions.

**Sec. 28.** RCW 74.08.278 and 2010 1st sp.s. c 8 s 25 are each amended to read as follows:

In order to comply with federal statutes and regulations pertaining to federal matching funds and to provide for the prompt payment of initial grants and adjusting payments of grants the secretary is authorized to make provisions for the cash payment of assistance by the secretary or county administrators by the establishment of a central operating fund. The secretary may establish such a fund with the approval of the state auditor from moneys appropriated to the department for the payment of ~~((disability-lifetime))~~ benefits under section 3 of this act in a sum not to exceed one million dollars. Such funds shall be deposited as agreed upon by the secretary and the state auditor in accordance with the laws regulating the deposits of public funds. Such security shall be required of the depository in connection with the fund as the state treasurer may prescribe. Moneys remaining in the fund shall be returned to the general fund at the end of the biennium, or an accounting of proper expenditures from the fund shall be made to the state auditor. All expenditures from such central operating fund shall be reimbursed out of and charged to the proper program appropriated by the use of such forms and vouchers as are approved by the secretary of the department and the state auditor. Expenditures from such fund shall be audited by the director of financial management and the state auditor from time to time and a report shall be made by the state auditor and the secretary as are required by law.

**Sec. 29.** RCW 74.08.335 and 2010 1st sp.s. c 8 s 26 are each amended to read as follows:

Temporary assistance for needy families and ~~((disability-lifetime))~~ benefits under sections 3 and 4 of this act shall not be granted to any person who has made an assignment or transfer of property for the purpose of rendering himself or herself eligible for the assistance. There is a rebuttable presumption that a person who has transferred or transfers any real or personal property or any interest in property within two years of the date of application for the assistance without receiving adequate monetary consideration therefor, did so for the purpose of rendering himself or herself eligible for the assistance. Any person who transfers property for the purpose of rendering himself or herself eligible for assistance, or any person who after becoming a recipient transfers any property or any interest in property without the consent of the secretary, shall be ineligible for assistance for a period of time during which the reasonable value of the property so transferred would have been adequate to meet the person's needs under normal conditions of living: PROVIDED, That the secretary is hereby authorized to allow exceptions in cases where undue hardship would result from a denial of assistance.

**Sec. 30.** RCW 74.08A.210 and 2010 1st sp.s. c 8 s 27 are each amended to read as follows:

(1) In order to prevent some families from developing dependency on temporary assistance for needy families, the department shall make available to qualifying applicants a diversion

program designed to provide brief, emergency assistance for families in crisis whose income and assets would otherwise qualify them for temporary assistance for needy families.

(2) Diversion assistance may include cash or vouchers in payment for the following needs:

- (a) Child care;
- (b) Housing assistance;
- (c) Transportation-related expenses;
- (d) Food;
- (e) Medical costs for the recipient's immediate family;
- (f) Employment-related expenses which are necessary to keep or obtain paid unsubsidized employment.

(3) Diversion assistance is available once in each twelve-month period for each adult applicant. Recipients of diversion assistance are not included in the temporary assistance for needy families program.

(4) Diversion assistance may not exceed one thousand five hundred dollars for each instance.

(5) To be eligible for diversion assistance, a family must otherwise be eligible for temporary assistance for needy families.

(6) Families ineligible for temporary assistance for needy families or ~~((disability-lifeline))~~ benefits under section 3 of this act due to sanction, noncompliance, the lump sum income rule, or any other reason are not eligible for diversion assistance.

(7) Families must provide evidence showing that a bona fide need exists according to subsection (2) of this section in order to be eligible for diversion assistance.

An adult applicant may receive diversion assistance of any type no more than once per twelve-month period. If the recipient of diversion assistance is placed on the temporary assistance for needy families program within twelve months of receiving diversion assistance, the prorated dollar value of the assistance shall be treated as a loan from the state, and recovered by deduction from the recipient's cash grant.

**Sec. 31.** RCW 74.08A.440 and 2010 1st sp.s. c 8 s 32 are each amended to read as follows:

Recipients exempted from active work search activities due to incapacity or a disability shall receive ~~((disability-lifeline))~~ services for which they are eligible, including aged, blind, or disabled assistance benefits as they relate to the facilitation of enrollment in the federal supplemental security income program, referrals to essential needs and housing support benefits, access to chemical dependency treatment, referrals to vocational rehabilitation, and other services needed to assist the recipient in becoming employable. ~~((Disability-lifeline))~~ Aged, blind, or disabled assistance and essential needs and housing support benefits shall not supplant cash assistance and other services provided through the temporary assistance for needy families program. To the greatest extent possible, services shall be funded through the temporary assistance for needy families appropriations.

**Sec. 32.** RCW 74.09.555 and 2010 1st sp.s. c 8 s 30 are each amended to read as follows:

(1) The department shall adopt rules and policies providing that when persons with a mental disorder, who were enrolled in medical assistance immediately prior to confinement, are released from confinement, their medical assistance coverage will be fully reinstated on the day of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law.

(2) The department, in collaboration with the Washington association of sheriffs and police chiefs, the department of corrections, and the regional support networks, shall establish procedures for coordination between department field offices, institutions for mental disease, and correctional institutions, as defined in RCW 9.94.049, that result in prompt reinstatement of eligibility and speedy eligibility determinations for persons who are

likely to be eligible for medical assistance services upon release from confinement. Procedures developed under this subsection must address:

(a) Mechanisms for receiving medical assistance services applications on behalf of confined persons in anticipation of their release from confinement;

(b) Expedient review of applications filed by or on behalf of confined persons and, to the extent practicable, completion of the review before the person is released;

(c) Mechanisms for providing medical assistance services identity cards to persons eligible for medical assistance services immediately upon their release from confinement; and

(d) Coordination with the federal social security administration, through interagency agreements or otherwise, to expedite processing of applications for federal supplemental security income or social security disability benefits, including federal acceptance of applications on behalf of confined persons.

(3) Where medical or psychiatric examinations during a person's confinement indicate that the person is disabled, the correctional institution or institution for mental diseases shall provide the department with that information for purposes of making medical assistance eligibility and enrollment determinations prior to the person's release from confinement. The department shall, to the maximum extent permitted by federal law, use the examination in making its determination whether the person is disabled and eligible for medical assistance.

(4) For purposes of this section, "confined" or "confinement" means incarcerated in a correctional institution, as defined in RCW 9.94.049, or admitted to an institute for mental disease, as defined in 42 C.F.R. part 435, Sec. 1009 on July 24, 2005.

(5) For purposes of this section, "likely to be eligible" means that a person:

(a) Was enrolled in medicaid or supplemental security income or the ~~((disability-lifeline))~~ medical care services program immediately before he or she was confined and his or her enrollment was terminated during his or her confinement; or

(b) Was enrolled in medicaid or supplemental security income or the ~~((disability-lifeline))~~ medical care services program at any time during the five years before his or her confinement, and medical or psychiatric examinations during the person's confinement indicate that the person continues to be disabled and the disability is likely to last at least twelve months following release.

(6) The economic services administration shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined person who is likely to be eligible for medicaid.

**Sec. 33.** RCW 74.50.060 and 2010 1st sp.s. c 8 s 31 are each amended to read as follows:

~~((4))~~ The department shall establish a shelter assistance program to provide, within available funds, shelter for persons eligible under this chapter. "Shelter," "shelter support," or "shelter assistance" means a facility under contract to the department providing room and board in a supervised living arrangement, normally in a group or dormitory setting, to eligible recipients under this chapter. This may include supervised domiciliary facilities operated under the auspices of public or private agencies. No facility under contract to the department shall allow the consumption of alcoholic beverages on the premises. The department may contract with counties and cities for such shelter services. To the extent possible, the department shall not displace existing emergency shelter beds for use as shelter under this chapter. In areas of the state in which it is not feasible to develop shelters, due to low numbers of people needing shelter services, or in which sufficient numbers of shelter beds are not available, the department may provide shelter through an intensive protective payee program,

THIRTIETH DAY, MAY 25, 2011

unless the department grants an exception on an individual basis for less intense supervision.

((2) Persons continuously eligible for the disability lifeline program since July 25, 1987, who transfer to the program established by this chapter, have the option to continue their present living situation, but only through a protective payee.))

**NEW SECTION. Sec. 34.** The following acts or parts of acts are each repealed:

(1) RCW 43.330.175 (Disability lifeline housing voucher program) and 2010 1st sp.s. c 8 s 8;

(2) RCW 74.04.120 (Basis of state's allocation of federal aid funds--County budget) and 2010 1st sp.s. c 8 s 19, 1979 c 141 s 301, & 1959 c 26 s 74.04.120; and

(3) RCW 74.04.810 (Study of disability lifeline program terminations--Report) and 2010 1st sp.s. c 8 s 11.

**NEW SECTION. Sec. 35.** The code reviser shall alphabetize the subsections containing definitions in RCW 74.04.005.

**NEW SECTION. Sec. 36.** Sections 1 through 3 and 7 of this act constitute a new chapter in Title 74 RCW.

**NEW SECTION. Sec. 37.** Section 11 of this act expires June 30, 2013.

**NEW SECTION. Sec. 38.** Except for sections 6 and 8 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**NEW SECTION. Sec. 39.** Section 6 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 22, 2011.

**NEW SECTION. Sec. 40.** Section 8 of this act takes effect November 1, 2011."

Senators Regala and Zarelli spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Regala and Zarelli to Engrossed Substitute House Bill No. 2082.

The motion by Senator Regala 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 6 of the title, after "funding;" strike the remainder of the title and insert "amending RCW 74.09.035, 74.04.005, 74.09.510, 74.50.055, 70.96A.530, 10.101.010, 26.19.071, 31.04.540, 70.123.110, 73.08.005, 74.04.0052, 74.04.225, 74.04.230, 74.04.266, 74.04.620, 74.04.652, 74.04.655, 74.04.657, 74.04.770, 74.08.043, 74.08.278, 74.08.335, 74.08A.210, 74.08A.440, 74.09.555, and 74.50.060; reenacting and amending RCW 13.34.030; adding new sections to chapter 43.185C RCW; adding a new chapter to Title 74 RCW; creating a new section; repealing RCW 43.330.175, 74.04.120, and 74.04.810; providing effective dates; providing an expiration date; and declaring an emergency."

#### POINT OF INQUIRY

Senator Regala: "Would Senator Zarelli yield to a question? Senator Zarelli, the bill clearly ends the disability lifeline program and creates other support programs in its place. Can you clarify for me if it's your understanding that there is no intent for current recipients to be required to reapply?"

2011 1ST SPECIAL SESSION

Senator Zarelli: "Thank you Senator for the question. A lot of effort has been put in to trying to clarify that within the bill. It is the intent in rewriting this that they do not have to reapply but have already been qualified for the disability lifeline program."

#### MOTION

On motion of Senator Regala, the rules were suspended, Engrossed Substitute House Bill No. 2082 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 Engrossed Substitute House Bill No. 2082 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2082 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 1; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Ericksen and Holmquist Newbry

Absent: Senator Hobbs

Excused: Senators Benton, Nelson and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2082 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator White, Senator Hobbs was excused.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2088, by House Committee on Ways & Means (originally sponsored by Representatives Probst, Haler, Frockt, Zeiger, Tharinger, Asay, Orwall, Armstrong, Carlyle, Maxwell, Springer, Kenney, Seaquist, Finn, Haigh, Dammeier, Smith, Goodman, Lytton, Stanford, Dahlquist, Ladenburg, Wylie and Rivers)

Creating the opportunity scholarship board to assist middle-income students and invest in high employer demand programs.

The measure was read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that, despite increases in degree production, there remain acute shortages in high employer demand programs of study, particularly in the science,

technology, engineering, and mathematics (STEM) and health care fields of study. According to the workforce training and education coordinating board, seventeen percent of Washington businesses had difficulty finding job applicants in 2010. Eleven thousand employers did not fill a vacancy because they lacked qualified job applicants. Fifty-nine percent of projected job openings in Washington state from now until 2017 will require some form of postsecondary education and training.

It is the intent of the legislature to provide jobs and opportunity by making Washington the place where the world's most productive companies find the world's most talented people. The legislature intends to accomplish this through the creation of the opportunity scholarship and the opportunity expansion programs to help mitigate the impact of tuition increases, increase the number of baccalaureate degrees in high employer demand and other programs, and invest in programs and students to meet market demands for a knowledge-based economy while filling middle-income jobs with a sufficient supply of skilled workers.

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

(1) "Board" means the higher education coordinating board or its successor.

(2) "Eligible education programs" means high employer demand and other programs of study as determined by the opportunity scholarship board.

(3) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses as determined by the program administrator in consultation with the board and the state board for community and technical colleges.

(4) "Eligible student" means a resident student who received their high school diploma or GED in Washington and who:

(a)(i) Has been accepted at a four-year institution of higher education into an eligible education program leading to a baccalaureate degree; or

(ii) Will attend a two-year institution of higher education and intend to transfer to an eligible education program at a four-year institution of higher education;

(b) Declares an intention to obtain a baccalaureate degree; and

(c) Has a family income at or below one hundred twenty-five percent of the state median family income at the time the student applies for an opportunity scholarship.

(5) "High employer demand program of study" has the same meaning as provided in RCW 28B.50.030.

(6) "Participant" means an eligible student who has received a scholarship under the opportunity scholarship program.

(7) "Program administrator" means a college scholarship organization that is a private nonprofit corporation registered under Title 24 RCW and qualified as a tax-exempt entity under section 501(c)(3) of the federal internal revenue code, with expertise in managing scholarships and college advising.

(8) "Resident student" has the same meaning as provided in RCW 28B.15.012.

**NEW SECTION. Sec. 3.** (1) The opportunity scholarship board is created. The opportunity scholarship board consists of seven members:

(a) Three members appointed by the governor. For two of the three appointments, the governor shall consider names from a list provided by the president of the senate and the speaker of the house of representatives; and

(b) Four foundation or business and industry representatives appointed by the governor from among the state's most productive industries such as aerospace, manufacturing, health sciences, information technology, and others. The foundation or business and industry representatives shall be selected from among

nominations provided by the private sector donors to the opportunity scholarship and opportunity expansion programs. However, the governor may request, and the private sector donors shall provide, an additional list or lists from which the governor shall select these representatives.

(2) Board members shall hold their offices for a term of four years from the first day of September and until their successors are appointed. No more than the terms of two members may expire simultaneously on the last day of August in any one year.

(3) The members of the opportunity scholarship board shall elect one of the business and industry representatives to serve as chair.

(4) Five members of the board constitute a quorum for the transaction of business. In case of a vacancy, or when an appointment is made after the date of expiration of the term, the governor or the president of the senate or the speaker of the house of representatives, depending upon which made the initial appointment to that position, shall fill the vacancy for the remainder of the term of the board member whose office has become vacant or expired.

(5) The opportunity scholarship board shall be staffed by the program administrator.

(6) The purpose of the opportunity scholarship board is to provide oversight and guidance for the opportunity expansion and the opportunity scholarship programs in light of established legislative priorities and to fulfill the duties and responsibilities under this chapter, including but not limited to determining eligible education programs for purposes of the opportunity scholarship program. Duties, exercised jointly with the program administrator, include soliciting funds and setting annual fund-raising goals.

(7) The opportunity scholarship board may report to the governor and the appropriate committees of the legislature with recommendations as to:

(a) Whether some or all of the scholarships should be changed to conditional scholarships that must be repaid in the event the participant does not complete the eligible education program; and

(b) A source or sources of funds for the opportunity expansion program in addition to the voluntary contributions of the high technology research and development tax credit under section 10 of this act.

**NEW SECTION. Sec. 4.** (1) The program administrator, under contract with the board, shall staff the opportunity scholarship board and shall have the duties and responsibilities provided in this chapter, including but not limited to publicizing the program, selecting participants for the opportunity scholarship award, distributing opportunity scholarship awards, and achieving the maximum possible rate of return on investment of the accounts in subsection (2) of this section, while ensuring transparency in the investment decisions and processes. Duties, exercised jointly with the opportunity scholarship board, include soliciting funds and setting annual fund-raising goals. The program administrator shall be paid an administrative fee as determined by the opportunity scholarship board.

(2) With respect to the opportunity scholarship program, the program administrator shall:

(a) Establish and manage two separate accounts into which to receive grants and contributions from private sources as well as state matching funds, and from which to disburse scholarship funds to participants;

(b) Solicit and accept grants and contributions from private sources, via direct payment, pledge agreement, or escrow account, of private sources for deposit into one or both of the two accounts created in this subsection (2)(b) in accordance with this subsection (2)(b):

(i) The "scholarship account," whose principal may be invaded, and from which scholarships must be disbursed beginning no later than December 1, 2011, if, by that date, state matching funds in the

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

amount of five million dollars or more have been received. Thereafter, scholarships shall be disbursed on an annual basis beginning no later than May 1, 2012, and every May 1st thereafter;

(ii) The "endowment account," from which scholarship moneys may be disbursed from earnings only in years when:

(A) The state match has been made into both the scholarship and the endowment account;

(B) The state appropriations for the state need grant under RCW 28B.92.010 meet or exceed state appropriations for the state need grant made in the 2011-2013 biennium, adjusted for inflation, and eligibility for state need grant recipients is at least seventy percent of state median family income; and

(C) The state has demonstrated progress toward the goal of total per-student funding levels, from state appropriations plus tuition and fees, of at least the sixtieth percentile of total per-student funding at similar public institutions of higher education in the global challenge states, as defined, measured, and reported in RCW 28B.15.068. In any year in which the office of financial management reports that the state has not made progress toward this goal, no new scholarships may be awarded. In any year in which the office of financial management reports that the percentile of total per-student funding is less than the sixtieth percentile and at least five percent less than the prior year, pledges of future grants and contributions may, at the request of the donor, be released and grants and contributions already received refunded to the extent that opportunity scholarship awards already made can be fulfilled from the funds remaining in the endowment account; and

(iii) An amount equal to at least fifty percent of all grants and contributions must be deposited into the scholarship account until such time as twenty million dollars have been deposited into the account, after which time the private donors may designate whether their contributions must be deposited to the scholarship or the endowment account. The opportunity scholarship board and the program administrator must work to maximize private sector contributions to both the scholarship account and the endowment account, to maintain a robust scholarship program while simultaneously building the endowment, and to determine the division between the two accounts in the case of undesignated grants and contributions, taking into account the need for a long-term funding mechanism and the short-term needs of families and students in Washington. The first five million dollars in state match, as provided in section 5 of this act, shall be deposited into the scholarship account and thereafter the state match shall be deposited into the two accounts in equal proportion to the private funds deposited in each account;

(c) Provide proof of receipt of grants and contributions from private sources to the board, identifying the amounts received by name of private source and date, and whether the amounts received were deposited into the scholarship or the endowment account;

(d) In consultation with the higher education coordinating board and the state board for community and technical colleges, make an assessment of the reasonable annual eligible expenses associated with eligible education programs identified by the opportunity scholarship board;

(e) Determine the dollar difference between tuition fees charged by institutions of higher education in the 2008-09 academic year and the academic year for which an opportunity scholarship is being distributed;

(f) Develop and implement an application, selection, and notification process for awarding opportunity scholarships;

(g) Determine the annual amount of the opportunity scholarship for each selected participant. The annual amount shall be at least one thousand dollars or the amount determined under (e) of this subsection, but may be increased on an income-based, sliding scale basis up to the amount necessary to cover all reasonable annual

eligible expenses as assessed pursuant to (d) of this subsection, or to encourage participation in baccalaureate degree programs identified by the opportunity scholarship board;

(h) Distribute scholarship funds to selected participants. Once awarded, and to the extent funds are available for distribution, an opportunity scholarship shall be automatically renewed until the participant withdraws from or is no longer attending the program, completes the program, or has taken the credit or clock hour equivalent of one hundred twenty-five percent of the published length of time of the participant's program, whichever occurs first, and as long as the participant annually submits documentation of filing both a free application for federal student aid and for available federal education tax credits, including but not limited to the American opportunity tax credit; and

(i) Notify institutions of scholarship recipients who will attend their institutions and inform them of the terms of the students' eligibility.

(3) With respect to the opportunity expansion program, the program administrator shall:

(a) Assist the opportunity scholarship board in developing and implementing an application, selection, and notification process for making opportunity expansion awards; and

(b) Solicit and accept grants and contributions from private sources for opportunity expansion awards.

NEW SECTION. Sec. 5. (1) The opportunity scholarship program is established.

(2) The purpose of this scholarship program is to provide scholarships that will help low and middle-income Washington residents earn baccalaureate degrees in high employer demand and other programs of study and encourage them to remain in the state to work. The program must be designed for both students starting at two-year institutions of higher education and intending to transfer to four-year institutions of higher education and students starting at four-year institutions of higher education.

(3) The opportunity scholarship board shall determine which programs of study, including but not limited to high employer demand programs, are eligible for purposes of the opportunity scholarship.

(4) The source of funds for the program shall be a combination of private grants and contributions and state matching funds. A state match may be earned under this section for private contributions made on or after the effective date of this section. A state match, up to a maximum of fifty million dollars annually, shall be provided beginning the later of January 1, 2014, or January 1st next following the end of the fiscal year in which collections of state retail sales and use tax, state business and occupation tax, and state public utility tax exceed, by ten percent the amounts collected from these tax resources in the fiscal year that ended June 30, 2008, as determined by the department of revenue.

NEW SECTION. Sec. 6. (1) The opportunity scholarship match transfer account is created in the custody of the state treasurer as a nonappropriated account to be used solely and exclusively for the opportunity scholarship program created in section 5 of this act. The purpose of the account is to provide matching funds for the opportunity scholarship program.

(2) Revenues to the account shall consist of appropriations by the legislature into the account and any gifts, grants, or donations received by the director of the board for this purpose.

(3) No expenditures from the account may be made except upon receipt of proof, by the director of the board from the program administrator, of private contributions to the opportunity scholarship program. Expenditures, in the form of matching funds, may not exceed the total amount of private contributions.

(4) Only the director of the board or the director's designee may authorize expenditures from the opportunity scholarship match

transfer account. Such authorization must be made as soon as practicable following receipt of proof as required under subsection (3) of this section.

**NEW SECTION. Sec. 7.** (1) The opportunity expansion program is established.

(2) The opportunity scholarship board shall select institutions of higher education to receive opportunity expansion awards. In so doing, the opportunity scholarship board must:

(a) Solicit, receive, and evaluate proposals from institutions of higher education that are designed to directly increase the number of baccalaureate degrees produced in high employer demand and other programs of study, and that include annual numerical targets for the number of such degrees, with a strong emphasis on serving students who received their high school diploma or GED in Washington or are adult Washington residents who are returning to school to gain a baccalaureate degree;

(b) Develop criteria for evaluating proposals and awarding funds to the proposals deemed most likely to increase the number of baccalaureate degrees and degrees produced in high employer demand and other programs of study;

(c) Give priority to proposals that include a partnership between public and private partnership entities that leverage additional private funds;

(d) Give priority to proposals that are innovative, efficient, and cost-effective, given the nature and cost of the particular program of study;

(e) Consult and operate in consultation with existing higher education stakeholders, including but not limited to: Faculty, labor, student organizations, and relevant higher education agencies; and

(f) Determine which proposals to improve and accelerate the production of baccalaureate degrees in high employer demand and other programs of study will receive opportunity expansion awards for the following state fiscal year, notify the state treasurer, and announce the awards.

(3) The state treasurer, at the direction of the opportunity scholarship board, must distribute the funds that have been awarded to the institutions of higher education from the opportunity expansion account.

(4) Institutions of higher education receiving awards under this section may not supplant existing general fund state revenues with opportunity expansion awards.

(5) Annually, the office of financial management shall report to the opportunity scholarship board, the governor, and the relevant committees of the legislature regarding the percentage of Washington households with incomes in the middle-income bracket or higher. For purposes of this section, "middle-income bracket" means household incomes between two hundred and five hundred percent of the 2010 federal poverty level, as determined by the United States department of health and human services for a family of four, adjusted annually for inflation.

(6) Annually, the higher education coordinating board must report to the opportunity scholarship board, the governor, and the relevant committees of the legislature regarding the increase in the number of degrees in high employer demand and other programs of study awarded by institutions of higher education over the average of the preceding ten academic years.

(7) In its comprehensive plan, the workforce training and education coordinating board shall include specific strategies to reach the goal of increasing the percentage of Washington households living in the middle-income bracket or higher, as calculated by the office of financial management and developed by the agency or education institution that will lead the strategy.

**NEW SECTION. Sec. 8.** (1) By December 1, 2012, and annually each December 1st thereafter, the opportunity scholarship board, together with the program administrator, shall report to the board, the governor, and the appropriate committees of the

legislature regarding the opportunity scholarship and opportunity expansion programs, including but not limited to:

(a) Which education programs the opportunity scholarship board determined were eligible for purposes of the opportunity scholarship;

(b) The number of applicants for the opportunity scholarship, disaggregated, to the extent possible, by race, ethnicity, gender, county of origin, age, and median family income;

(c) The number of participants in the opportunity scholarship program, disaggregated, to the extent possible, by race, ethnicity, gender, county of origin, age, and median family income;

(d) The number and amount of the scholarships actually awarded, and whether the scholarships were paid from the scholarship account or the endowment account;

(e) The institutions and eligible education programs in which opportunity scholarship participants enrolled, together with data regarding participants' completion and graduation;

(f) The total amount of private contributions and state match moneys received for the opportunity scholarship program, how the funds were distributed between the scholarship and endowment accounts, the interest or other earnings on the accounts, and the amount of any administrative fee paid to the program administrator; and

(g) Identification of the programs the opportunity scholarship board selected to receive opportunity expansion awards and the amount of such awards.

(2) In the next succeeding legislative session following receipt of a report required under subsection (1) of this section, the appropriate committees of the legislature shall review the report and consider whether any legislative action is necessary with respect to either the opportunity scholarship program or the opportunity expansion program, including but not limited to consideration of whether any legislative action is necessary with respect to the nature and level of focus on high employer demand fields and the number and amount of scholarships.

**NEW SECTION. Sec. 9.** (1) Beginning in 2018, the joint legislative audit and review committee shall evaluate the opportunity scholarship and opportunity expansion programs, and submit a report to the appropriate committees of the legislature by December 1, 2018. The committee's evaluation shall include, but not be limited to:

(a) The number and type of eligible education programs as determined by the opportunity scholarship board;

(b) The number of participants in the opportunity scholarship program in relation to the number of participants who completed a baccalaureate degree;

(c) The total cumulative number of students who received opportunity scholarships, and the total cumulative number of students who gained a baccalaureate degree after receiving an opportunity scholarship and the types of baccalaureate degrees awarded;

(d) The amount of private contributions to the opportunity scholarship program, annually and in total;

(e) The amount of state match moneys to the opportunity scholarship program, annually and in total;

(f) The amount of any administrative fees paid to the program administrator, annually and in total;

(g) The source and amount of funding, annually and cumulatively, for the opportunity expansion program;

(h) The number and type of proposals submitted by institutions for opportunity expansion awards, the number and type of proposals that received an award of opportunity expansion funds, and the amount of such awards;

(i) The total cumulative number of additional high employer demand degrees produced in Washington state due to the opportunity expansion program, including both the initial

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

opportunity expansion awards and the subsequent inclusion in base funding; and

(j) Evidence that the existence of the opportunity scholarship and opportunity expansion programs have contributed to the achievement of the public policy objectives of helping to mitigate the impact of tuition increases, increasing the number of baccalaureate degrees in high employer demand and other programs, and investing in programs and students to meet market demands for a knowledge-based economy while filling middle-income jobs with a sufficient supply of skilled workers.

(2) In the event that the joint legislative audit and review committee is charged with completing an evaluation of other aspects of degree production, funding, or other aspects of higher education in 2018, and to the extent that it is economical and feasible to do so, the committee shall combine the multiple evaluations and submit a single report.

**NEW SECTION. Sec. 10.** A new section is added to chapter 82.32 RCW to read as follows:

A person eligible for the high technology research and development tax credit under RCW 82.04.4452 may contribute all or any portion of the credit to the opportunity expansion account hereby created in the state treasury. The department must create the forms and processes to allow a person to make such an election easily and quickly by means of checking a box. By May 1, 2012, and by May 1st of every year thereafter, the department must report the amount so contributed and certify the amount to the state treasurer. By July 1, 2012, and by July 1st of every year thereafter, the state treasurer must transfer the amount into the opportunity expansion account. Money in the account may only be appropriated for the purposes specified in section 7 of this act.

**NEW SECTION. Sec. 11.** This chapter may be known and cited as the opportunity scholarship act.

**NEW SECTION. Sec. 12.** Sections 1 through 9 and 11 of this act constitute a new chapter in Title 28B RCW.

**NEW SECTION. Sec. 13.** 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."

MOTION

Senator Rockefeller moved that the following amendment by Senator Rockefeller and others to the committee striking amendment be adopted:

On page 3, beginning on line 18, after "governor" strike all material through "position," on line 20

On page 5, line 26, after "account" insert "or to the college bound scholarship program established in chapter 28B.118 RCW"

On page 5, beginning on line 35, after "shall" strike all material through "account" on line 37 and insert "follow the private contributions into either of the opportunity scholarship accounts or to the college bound scholarship program, in equal proportion to the private funds so contributed"

On page 6, line 4, after "account" insert "or directed to the board for purposes of the college bound scholarship program pursuant to RCW 28B.118.050"

On page 7, line 32, after "opportunity" insert "and college bound"

On page 7, line 35, after "act" insert "and the college bound scholarship program created in chapter 28B.118 RCW"

On page 8, line 2, after "program" insert "and the college bound scholarship program"

On page 8, line 6, after "account" insert "for purposes of the opportunity scholarship program"

On page 8, line 12, after "opportunity" insert "and college bound"

On page 12, after line 20, insert the following:

**NEW SECTION. Sec. 11.** RCW 28B.118.010 and 2008 c 321 s 9 are each amended to read as follows:

The higher education coordinating board shall design the Washington college bound scholarship program in accordance with this section.

(1) "Eligible students" are those students who qualify for free or reduced-price lunches. If a student qualifies in the seventh grade, the student remains eligible even if the student does not receive free or reduced-price lunches thereafter.

(2) Eligible students shall be notified of their eligibility for the Washington college bound scholarship program beginning in their seventh grade year. Students shall also be notified of the requirements for award of the scholarship.

(3) To be eligible for a Washington college bound scholarship, a student must sign a pledge during seventh or eighth grade that includes a commitment to graduate from high school with at least a C average and with no felony convictions. Students who were in the eighth grade during the 2007-08 school year may sign the pledge during the 2008-09 school year. The pledge must be witnessed by a parent or guardian and forwarded to the higher education coordinating board by mail or electronically, as indicated on the pledge form.

(4)(a) Scholarships shall be awarded to eligible students graduating from public high schools, approved private high schools under chapter 28A.195 RCW, or who received home-based instruction under chapter 28A.200 RCW.

(b) To receive the Washington college bound scholarship, a student must graduate with at least a "C" average from a public high school or an approved private high school under chapter 28A.195 RCW in Washington or have received home-based instruction under chapter 28A.200 RCW, must have no felony convictions, and must be a resident student as defined in RCW 28B.15.012(2) (a) through (d).

(5) A student's family income will be assessed upon graduation before awarding the scholarship.

(6) If at graduation from high school the student's family income does not exceed sixty-five percent of the state median family income, scholarship award amounts shall be as provided in this section.

(a) For students attending two or four-year institutions of higher education as defined in RCW 28B.10.016, the value of the award shall be (i) ~~((the difference between--))~~ the student's tuition and required fees, less the value of any state-funded grant, scholarship, or waiver assistance the student receives and less the value of any financial assistance the student receives from the opportunity scholarship program; (ii) plus five hundred dollars for books and materials.

(b) For students attending private four-year institutions of higher education in Washington, the award amount shall be the representative average of awards granted to students in public research universities in Washington.

(c) For students attending private vocational schools in Washington, the award amount shall be the representative average of awards granted to students in public community and technical colleges in Washington.

(7) Recipients may receive no more than four full-time years' worth of scholarship awards.

(8) Institutions of higher education shall award the student all need-based and merit-based financial aid for which the student would otherwise qualify. The Washington college bound scholarship is intended to replace unmet need, loans, and, at the

student's option, work-study award before any other grants or scholarships are reduced.

(9) The first scholarships shall be awarded to students graduating in 2012.

(10) The state of Washington retains legal ownership of tuition units awarded as scholarships under this chapter until the tuition units are redeemed. These tuition units shall remain separately held from any tuition units owned under chapter 28B.95 RCW by a Washington college bound scholarship recipient.

(11) The scholarship award must be used within five years of receipt. Any unused scholarship tuition units revert to the Washington college bound scholarship account.

(12) Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the scholarship tuition units shall revert to the Washington college bound scholarship account.

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

Senators Rockefeller and Kilmer spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Tom and Hill spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Rockefeller and others on page 3, line 18 to the committee striking amendment to Engrossed Substitute House Bill No. 2088.

The motion by Senator Rockefeller failed and the amendment to the committee striking amendment was not adopted by a rising vote.

#### MOTION

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Hobbs to the committee striking amendment be adopted:

On page 7, line 35, after "act" insert ", the Washington award for vocational excellence established in chapter 28C.04 RCW, and the Washington scholars program established in chapter 28A.600 RCW"

On page 8, after line 15, insert the following:

"(5) Each fiscal year, expenditures from any state appropriations to the opportunity scholarship match transfer account shall be allocated as follows:

(a) Unless other state general fund moneys are appropriated for new awards in at least the amount specified in this subsection (a), eight hundred fifty thousand dollars to the higher education coordinating board for new awards to eligible students in the Washington award for vocational excellence established in chapter 28C.04 RCW and the Washington scholars program established in chapter 28A.600 RCW. If the amount allocated in this subsection (a) is insufficient to fund the full amount of all new awards for eligible students, then the new awards shall be reduced proportionally in a manner that reflects the cost differential between the two award programs; and

(b) The remaining moneys to the opportunity scholarship program."

Senators McAuliffe, Pridemore and Conway spoke in favor of adoption of the amendment to the committee striking amendment.

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

The President declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and Hobbs on page 7, line 35 to the committee striking amendment to Engrossed Substitute House Bill No. 2088.

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

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2088.

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

#### MOTION

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

On page 1, beginning on line 3 of the title, after "programs;" strike the remainder of the title and insert "adding a new section to chapter 82.32 RCW; adding a new chapter to Title 28B RCW; and declaring an emergency."

#### MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute House Bill No. 2088 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2088 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2088 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Pflug and Pridemore

Excused: Senators Benton, Hobbs, Nelson and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2088 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

#### MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1497,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2020.

and the same are herewith transmitted.



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

BARBARA BAKER, Chief Clerk

MOTION

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

THIRD SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1497 by House Committee on Capital Budget (originally sponsored by Representatives Dunshee and Warnick)

AN ACT Relating to the capital budget; making appropriations and authorizing expenditures for capital improvements; amending RCW 39.35B.050, 28B.20.725, 28B.30.750, 28B.50.360, 43.43.944, 43.63A.125, 82.16.020, 82.16.020, 82.18.040, and 82.45.060; amending 2009 c 497 ss 3136 and 3155 (uncodified); amending 2010 1st sp.s. c 3 s 1017 (uncodified); amending 2010 1st sp.s. c 3 s 6005 (uncodified); amending 2011 c 5 s 801 (uncodified); reenacting and amending RCW 28B.15.210, 28B.15.310, and 28B.35.370; adding a new section to chapter 43.155 RCW; adding new sections to 2009 c 497 (uncodified); creating new sections; providing an effective date; providing an expiration date; and declaring an emergency.

ESHB 2020 by House Committee on Capital Budget (originally sponsored by Representative Dunshee)

AN ACT Relating to funding capital projects; amending RCW 43.99Q.130; amending 2009 c 497 ss 1050, 1016, 1017, 1020, 1036, 1041, 1042, 1069, 1076, 1078, 2016, 2025, 2012, 2017, 2041, 2045, 2048, 2043, 2044, 2046, 2049, 2050, 2051, 2052, 2053, 2055, 2056, 2057, 2058, 2062, 2063, 2066, 2074, 2073, 3026, 3011, 3006, 3004, 3008, 3005, 3039, 3055, 3077, 3082, 3135, 3157, 3186, 3174, 3184, 3166, 3175, 3193, 3194, 3195, 3189, 3192, 5015, 5077, 5082, 5144, 5161, 5228, and 5216 (uncodified); amending 2010 1st sp.s. c 36 ss 1001, 1002, 1005, 1003, 1008, 1009, 1011, 1014, 1015, 1016, 1021, 1034, 2006, 2016, 2010, 3015, 3020, 3017, 3024, 5007, 5012, 5041, 5078, and 5080 (uncodified); adding a new section to 2009 c 497 (uncodified); adding a new section to chapter 43.99I RCW; adding a new section to chapter 43.99N RCW; adding a new section to chapter 43.99P RCW; adding a new section to chapter 43.99Q RCW; adding a new chapter to Title 43 RCW; creating new sections; and declaring an emergency.

MOTION

On motion of Senator Eide and without objection, Engrossed Substitute House Bill No. 1497 and Engrossed Substitute House Bill No. 2020 were placed on the second reading calendar under suspension of the rules.

MOTION

On motion of Senator Eide and without objection, Senate Bill 5091 which had been referred to the Committee on Rules under the provisions of House Concurrent Resolution No. 4405, was

placed on the second reading calendar under suspension of the rules.

MOTION

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

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2065, by House Committee on Ways & Means (originally sponsored by Representative Hunt)

Regarding the allocation of funding for students enrolled in alternative learning experiences.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Ways & Means be not adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) Under Article IX of the Washington state Constitution, all children are entitled to an opportunity to receive a basic education. Although the state must assure that students in public schools have opportunities to participate in the instructional program of basic education, there is no obligation for either the state or school districts to provide that instruction using a particular delivery method or through a particular program.

(2) The legislature finds ample evidence of the need to examine and reconsider policies under which alternative learning that occurs outside the classroom using an individual student learning plan may be considered equivalent to full-time attendance in school, including for funding purposes. Previous legislative studies have raised questions about financial practices and accountability in alternative learning experience programs. Since 2005, there has been significant enrollment growth in alternative learning experience online programs, with evidence of unexpected financial impact when large numbers of nonresident students enroll in programs. Based on this evidence, there is a rational basis on which to conclude that there are different costs associated with providing a program not primarily based on full-time, daily contact between teachers and students and not primarily occurring on-site in a classroom.

(3) For these reasons, the legislature intends to allow for continuing review and revision of the way in which state funding allocations are used to support alternative learning experience programs.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.150 RCW to read as follows:

(1) For purposes of this chapter, "alternative learning experience program" means a course or set of courses that is:

(a) Provided in whole or in part independently from a regular classroom setting or schedule, but may include some components of direct instruction;

(b) Supervised, monitored, assessed, evaluated, and documented by a certificated teacher employed by the school district or under contract as permitted by applicable rules; and

(c) Provided in accordance with a written student learning plan that is implemented pursuant to the school district's policy and rules

adopted by the superintendent of public instruction for alternative learning experiences.

(2) Alternative learning experience programs include, but are not limited to:

(a) Alternative learning experience online programs as defined in RCW 28A.150.262;

(b) Programs that include significant participation and partnership by parents and families in the design and implementation of a student's learning experience; and

(c) Programs that use a written student learning plan to direct the student in independent study.

(3) School districts that offer alternative learning experience programs may not provide any compensation, reimbursement, gift, reward, or gratuity to any parents, guardians, or students for participation. This prohibition includes, but is not limited to, providing funds to parents, guardians, or students for the purchase of educational materials, supplies, experiences, services, or technological equipment. A district may purchase educational materials, equipment, or other nonconsumable supplies for students' use in alternative learning experience programs if the purchase is consistent with the district's approved curriculum, conforms to applicable laws and rules, and is made in the same manner as such purchases are made for students in the district's regular instructional program. Items so purchased remain the property of the school district upon program completion. School districts may not purchase or contract for instructional or co-curricular experiences and services that are included in an alternative learning experience written student learning plan, including but not limited to lessons, trips, and other activities, unless substantially similar experiences and services are available to students enrolled in the district's regular instructional program. School districts that purchase or contract for such experiences and services for students enrolled in an alternative learning experience program must submit an annual report to the office of the superintendent of public instruction detailing the costs and purposes of the expenditures. These requirements extend to contracted providers of alternative learning experience programs, and each district shall be responsible for monitoring the compliance of its providers with these requirements. However, nothing in this section shall prohibit school districts from contracting with online providers approved by the office of the superintendent of public instruction pursuant to chapter 28A.250 RCW.

(4) To count as a full-time equivalent student or portion thereof for purposes of state funding under RCW 28A.150.260, students participating in alternative learning experience programs must receive one hour per week of face-to-face, in-person instructional contact time from a certificated teacher. The one hour per week need not occur in a single sixty minute block of time but may occur in multiple blocks of time throughout the week that add up to sixty minutes. The supervising teacher may rely on synchronous digital communication, including telephone or interactive audio or video communications, to meet the requirement for face-to-face, in-person contact with students due to reasons of medical necessity or when the student's temporary travel makes the in-person contact infeasible. For alternative learning experience online programs under RCW 28A.150.262, this requirement may be satisfied by one hour per week of direct personal contact in compliance with RCW 28A.150.262(11).

(5) Part-time enrollment in alternative learning experiences is subject to the provisions of RCW 28A.150.350.

(6) The superintendent of public instruction shall adopt rules defining minimum requirements and accountability for alternative learning experience programs.

**Sec. 3.** RCW 28A.150.262 and 2009 c 542 s 9 are each amended to read as follows:

Under RCW 28A.150.260, the superintendent of public instruction shall revise the definition of a full-time equivalent

student to include students who receive instruction through alternative learning experience online programs. As used in this section and section 2 of this act, an "alternative learning experience online program" is a set of online courses or an online school program as defined in RCW 28A.250.010 that is delivered to students in whole or in part independently from a regular classroom schedule. ~~((The superintendent of public instruction has the authority to adopt rules to implement the revised definition beginning with the 2005-2007 biennium for school districts claiming state funding for the programs.))~~ Beginning in the 2012-13 school year, alternative learning experience online programs must be offered by an online provider approved by the superintendent of public instruction under RCW 28A.250.020 to meet the definition in this section. The rules shall include but not be limited to the following:

(1) Defining a full-time equivalent student under RCW 28A.150.260 or part-time student under RCW 28A.150.350 based upon the district's estimated average weekly hours of learning activity as identified in the student's learning plan, as long as the student is found, through monthly evaluation, to be making satisfactory progress; the rules shall require districts providing programs under this section to nonresident students to establish procedures that address, at a minimum, the coordination of student counting for state funding so that no student is counted for more than one full-time equivalent in the aggregate;

(2) Requiring the board of directors of a school district offering, or contracting under RCW 28A.150.305 to offer, an alternative learning experience online program to adopt and annually review written policies for each program and program provider and to receive an annual report on its digital alternative learning experience online programs from its staff;

(3) Requiring each school district offering or contracting to offer an alternative learning experience online program to report annually to the superintendent of public instruction on the types of programs and course offerings, and number of students participating;

(4) Requiring completion of a program self-evaluation;

(5) Requiring documentation of the district of the student's physical residence;

(6) Requiring that supervision, monitoring, assessment, and evaluation of the alternative learning experience online program be provided by a certificated ~~((instructional staff))~~ teacher;

(7) Requiring each school district offering courses or programs to identify the ratio of certificated instructional staff to full-time equivalent students enrolled in such courses or programs, and to include a description of their ratio as part of the reports required under subsections (2) and (3) of this section;

(8) Requiring reliable methods to verify a student is doing his or her own work; the methods may include proctored examinations or projects, including the use of web cams or other technologies. "Proctored" means directly monitored by an adult authorized by the school district;

(9) Requiring, for each student receiving instruction in an alternative learning experience online program, a learning plan that includes a description of course objectives and information on the requirements a student must meet to successfully complete the program or courses. The rules shall allow course syllabi and other additional information to be used to meet the requirement for a learning plan;

(10) Requiring that the district assess the educational progress of enrolled students at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district. Part-time students shall also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW. The rules shall address how students who reside outside the geographic service area of the school district are to be assessed;

(11) Requiring that each student enrolled in the program have direct personal contact with a certificated ~~((instructional staff))~~ teacher at least weekly until the student completes the course objectives or the requirements in the learning plan. Direct personal contact is for the purposes of instruction, review of assignments, testing, evaluation of student progress, or other learning activities. Direct personal contact may include the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication. At least one hour per week of the direct personal contact must be synchronous between the teacher and the student. For purposes of this section, the one hour per week of synchronous contact time need not occur in a single sixty minute block of time but may occur in multiple blocks of time throughout the week that add up to sixty minutes;

(12) Requiring state-funded public schools or public school programs whose primary purpose is to provide alternative learning experience online learning programs to receive accreditation through the Northwest ~~((association of accredited schools))~~ accreditation commission or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning;

(13) Requiring state-funded public schools or public school programs whose primary purpose is to provide alternative learning experience online learning to provide information to students and parents on whether or not the courses or programs: Cover one or more of the school district's learning goals or of the state's essential academic learning requirements or whether they permit the student to meet one or more of the state's or district's graduation requirements; and

(14) Requiring that a school district that provides one or more alternative learning experience online courses to a student provide the parent or guardian of the student, prior to the student's enrollment, with a description of any difference between home-based education as described in chapter 28A.200 RCW and the enrollment option selected by the student. The parent or guardian shall sign documentation attesting to his or her understanding of the difference and the documentation shall be retained by the district and made available for audit.

**Sec. 4.** RCW 28A.250.005 and 2009 c 542 s 1 are each amended to read as follows:

(1) The legislature finds that online learning provides tremendous opportunities for students to access curriculum, courses, and a unique learning environment that might not otherwise be available. The legislature supports and encourages online learning opportunities.

(2) However, the legislature also finds that there is a need to assure quality in online learning, both for the programs and the administration of those programs. The legislature is the steward of public funds that support students enrolled in online learning and must ensure an appropriate accountability system at the state level.

(3) Therefore, the legislature intends to take a first step in improving oversight and quality assurance of online learning programs, and intends to examine possible additional steps that may need to be taken to improve financial accountability.

(4) The first step in improving quality assurance is to:

(a) Provide objective information to students, parents, and educators regarding available online learning opportunities, including program and course content, how to register for programs and courses, teacher qualifications, student-to-teacher ratios, prior course completion rates, and other evaluative information;

(b) Create an approval process for ~~((multidistrict))~~ online providers;

(c) Enhance statewide equity of student access to high quality online learning opportunities; and

(d) Require school district boards of directors to develop policies and procedures for student access to online learning opportunities.

**Sec. 5.** RCW 28A.250.010 and 2009 c 542 s 2 are each amended to read as follows:

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

(1)(a) "Multidistrict online provider" means:

(i) A private or nonprofit organization that enters into a contract with a school district to provide online courses or programs to K-12 students from more than one school district;

(ii) A private or nonprofit organization that enters into contracts with multiple school districts to provide online courses or programs to K-12 students from those districts; or

(iii) Except as provided in (b) of this subsection, a school district that provides online courses or programs to students who reside outside the geographic boundaries of the school district.

(b) "Multidistrict online provider" does not include a school district online learning program in which fewer than ten percent of the students enrolled in the program are from other districts under the interdistrict student transfer provisions of RCW 28A.225.225. "Multidistrict online provider" also does not include regional online learning programs that are jointly developed and implemented by two or more school districts or an educational service district through an interdistrict cooperative program agreement that addresses, at minimum, how the districts share student full-time equivalency for state basic education funding purposes and how categorical education programs, including special education, are provided to eligible students.

(2)(a) "Online course" means a course ~~((that))~~ where:

(i) More than half of the course content is delivered ~~((primarily))~~ electronically using the internet or other computer-based methods; and

(ii) ((Is taught by a teacher primarily from a remote location. Students enrolled in an online course may have access to the teacher synchronously, asynchronously, or both)) More than half of the teaching is conducted from a remote location through an online course learning management system or other online or electronic tools.

(b) "Online school program" means a school program that:

(i) Offers courses or grade-level coursework that is delivered primarily electronically using the internet or other computer-based methods;

(ii) Offers courses or grade-level coursework that is taught by a teacher primarily from a remote location using online or other electronic tools. Students enrolled in an online program may have access to the teacher synchronously, asynchronously, or both;

(iii) ~~((Delivers a part-time or full-time sequential program))~~ Offers a sequential set of online courses or grade-level coursework that may be taken in a single school term or throughout the school year in a manner that could provide a full-time basic education program if so desired by the student. Students may enroll in the program as part-time or full-time students; and

(iv) Has an online component of the program with online lessons and tools for student and data management.

(c) An online course or online school program may be delivered to students at school as part of the regularly scheduled school day. An online course or online school program also may be delivered to students, in whole or in part, independently from a regular classroom schedule, but such courses or programs must comply with RCW 28A.150.262 to qualify for state basic education funding.

(3) "Online provider" means any provider of an online course or program, including multidistrict online providers, all school district online learning programs, and all regional online learning programs.

**Sec. 6.** RCW 28A.250.020 and 2009 c 542 s 3 are each amended to read as follows:

(1) The superintendent of public instruction, in collaboration with the state board of education, shall develop and implement approval criteria and a process for approving (~~(multidistrict)~~) online providers; a process for monitoring and if necessary rescinding the approval of courses or programs offered by an online (~~(course)~~) provider; and an appeals process. The criteria and processes for multidistrict online providers shall be adopted by rule by December 1, 2009.

(2) When developing the approval criteria, the superintendent of public instruction shall require that providers offering online courses or programs have accreditation through the Northwest (~~(association of accredited schools)~~) accreditation commission or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning. In addition to other criteria, the approval criteria shall include the degree of alignment with state academic standards and require that all teachers be certificated in accordance with Washington state law. When reviewing (~~(multidistrict)~~) online providers that offer high school courses, the superintendent of public instruction shall assure that the courses offered by the provider are eligible for high school credit. However, final decisions regarding the awarding of high school credit shall remain the responsibility of school districts.

(3) Initial approval of (~~(multidistrict)~~) online providers by the superintendent of public instruction shall be for four years. The superintendent of public instruction shall develop a process for the renewal of approvals and for rescinding approvals based on noncompliance with approval requirements. Any multidistrict online provider that was approved by the digital learning commons or accredited by the Northwest association of accredited schools before July 26, 2009, and that meets the teacher certification requirements of subsection (2) of this section, is exempt from the initial approval process under this section until August 31, 2012, but must comply with the process for renewal of approvals and must comply with approval requirements.

(4) The superintendent of public instruction shall make the first round of decisions regarding approval of multidistrict online providers by April 1, 2010. The first round of decisions regarding approval of online providers that are not multidistrict online providers shall be made by April 1, 2012. Thereafter, the superintendent of public instruction shall make annual approval decisions no later than November 1st of each year.

(5) The superintendent of public instruction shall establish an online learning advisory committee within existing resources that shall provide advice to the superintendent regarding the approval criteria, major components of the web site, the model school district policy, model agreements, and other related matters. The committee shall include a representative of each of the following groups: Private and public online providers, parents of online students, accreditation organizations, educational service districts, school principals, teachers, school administrators, school board members, institutions of higher education, and other individuals as determined by the superintendent. Members of the advisory committee shall be selected by the superintendent based on nominations from statewide organizations, shall serve three-year terms, and may be reappointed. The superintendent shall select the chair of the committee.

**Sec. 7.** RCW 28A.250.030 and 2009 c 542 s 4 are each amended to read as follows:

The superintendent of public instruction shall create an office of online learning. In the initial establishment of the office, the

superintendent shall hire staff who have been employed by the digital learning commons to the extent such hiring is in accordance with state law and to the extent funds are available. The office shall:

(1) Develop and maintain a web site that provides objective information for students, parents, and educators regarding online learning opportunities offered by (~~(multidistrict)~~) online providers that have been approved in accordance with RCW 28A.250.020. The web site shall include information regarding the online course provider's overall instructional program, specific information regarding the content of individual online courses and online school programs, a direct link to each online course provider's web site, how to register for online learning programs and courses, teacher qualifications, student-to-teacher ratios, course completion rates, and other evaluative and comparative information. The web site shall also provide information regarding the process and criteria for approving (~~(multidistrict)~~) online providers. To the greatest extent possible, the superintendent shall use the framework of the course offering component of the web site developed by the digital learning commons;

(2) Develop model agreements with approved (~~(multidistrict)~~) online providers that address standard contract terms and conditions that may apply to contracts between a school district and the approved provider. The purpose of the agreements is to provide a template to assist individual school districts, at the discretion of the district, in contracting with (~~(multidistrict)~~) online providers to offer the (~~(multidistrict)~~) online provider's courses and programs to students in the district. The agreements may address billing, fees, responsibilities of online course providers and school districts, and other issues; and

(3) In collaboration with the educational service districts:

(a) Provide technical assistance and support to school district personnel through the educational technology centers in the development and implementation of online learning programs in their districts; and

(b) To the extent funds are available, provide online learning tools for students, teachers, administrators, and other educators.

**Sec. 8.** RCW 28A.250.060 and 2009 c 542 s 7 are each amended to read as follows:

(1) Beginning with the 2011-12 school year, school districts may claim state (~~(basic education)~~) funding under RCW 28A.150.260, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are:

(a) Offered by a multidistrict online provider approved under RCW 28A.250.020 by the superintendent of public instruction;

(b) Offered by a school district online learning program if the program serves students who reside within the geographic boundaries of the school district, including school district programs in which fewer than ten percent of the program's students reside outside the school district's geographic boundaries; or

(c) Offered by a regional online learning program where courses are jointly developed and offered by two or more school districts or an educational service district through an interdistrict cooperative program agreement.

(2) Beginning with the 2012-13 school year, school districts may claim state funding under RCW 28A.150.260, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are offered by an online provider approved under RCW 28A.250.020 by the superintendent of public instruction.

(3) Criteria shall be established by the superintendent of public instruction to allow online courses that have not been approved by the superintendent of public instruction to be eligible for state funding if the course is in a subject matter in which no courses have

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

been approved and, if it is a high school course, the course meets Washington high school graduation requirements.

**Sec. 9.** RCW 28A.150.260 and 2010 c 236 s 2 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act. The allocations calculated under subsections (4) through (12) of this section may be adjusted as provided in the omnibus appropriations act for students whose full-time equivalent enrollment status is calculated based on enrollment in an alternative learning experience program as defined in section 2 of this act.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

(4)(a) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and

provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

General education average class size	
Grades K-3	25.23
Grade 4-7	27.00
Grades 5-6	27.00
Grades 7-8	28.53
Grades 9-12	28.74

(b) During the 2011-2013 biennium and beginning with schools with the highest percentage of students eligible for free and reduced-price meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no more than 17.0 full-time equivalent students per teacher beginning in the 2017-18 school year.

(c) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

Career and technical education average class size	
Approved career and technical education offered at the middle school and high school level	26.57
Skill center programs meeting the standards established by the office of the superintendent of public instruction	22.76

(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and

(ii) A specialty average class size for laboratory science, advanced placement, and international baccalaureate courses.

(5) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

	Elementary School	Middle School	High School
Principals, assistant principals, and other certificated building-level administrators.....	1.253	1.353	1.880
Teacher librarians, a function that includes information literacy, technology, and media to support school library media programs.....	0.663	0.519	0.523
Health and social services:			
School nurses.....	0.076	0.060	0.096
Social workers.....	0.042	0.006	0.015
Psychologists.....	0.017	0.002	0.007

Guidance counselors, a function that includes parent outreach and graduation advising.....	0.493	1.1	1.9
Teaching assistance, including any aspect of educational instructional services provided by classified employees....	0.936	0.7	0.6
Office support and other noninstructional aides.....	2.012	2.3	3.2
Custodians.....	1.657	1.9	2.9
		42	65
Classified staff providing student and staff safety.....	0.079	0.0	0.1
Parent involvement coordinators.....	0.00	0.0	0.0
		0	0

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

Staff per 1,000 K-12 students	
Technology	0.628
Facilities, maintenance, and grounds	1.813
Warehouse, laborers, and mechanics	0.332

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (b) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs, to be adjusted for inflation from the 2008-09 school year:

Per annual average full-time equivalent student in grades K-12	
Technology	\$54.43
Utilities and insurance	\$147.90
Curriculum and textbooks	\$58.44
Other supplies and library materials	\$124.07
Instructional professional development for certified and classified staff	\$9.04
Facilities maintenance	\$73.27
Security and central office	\$50.76

(b) During the 2011-2013 biennium, the minimum allocation for maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

Per annual average full-time equivalent student in grades K-12	
Technology	\$113.80
Utilities and insurance	\$309.21

Curriculum and textbooks	\$122.17
Other supplies and library materials	\$259.39
Instructional professional development for certificated and classified staff	\$18.89
Facilities maintenance	\$153.18
Security and central office administration	\$106.12

(9) In addition to the amounts provided in subsection (8) of this section, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

(a) Exploratory career and technical education courses for students in grades seven through twelve;

(b) Laboratory science courses for students in grades nine through twelve;

(c) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and

(d) Preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

(10) In addition to the allocations otherwise provided under this section, amounts shall be provided to support the following programs and services:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the district percentage of students in grades K-12 who were eligible for free or reduced-price meals in the prior school year. The minimum allocation for the program shall provide for each level of prototypical school resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide resources to provide, on a statewide average, 4.7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher.

(c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a) and (b), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

**Sec. 10.** RCW 28A.150.100 and 2010 c 236 s 13 are each amended to read as follows:

(1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" means all full-time equivalent classroom teachers, teacher librarians, guidance counselors, certificated student health services staff, and other certificated instructional staff in the following programs as defined for statewide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) Each school district shall maintain a ratio of at least forty-six basic education certificated instructional staff to one thousand annual average full-time equivalent students. This requirement does not apply to that portion of a district's annual average full-time equivalent enrollment that is enrolled in alternative learning experience programs as defined in section 2 of this act.

**NEW SECTION. Sec. 11.** Sections 9 and 10 of this act take effect September 1, 2011."

On page 1, line 2 of the title, after "experiences;" strike the remainder of the title and insert "amending RCW 28A.150.262, 28A.250.005, 28A.250.010, 28A.250.020, 28A.250.030, 28A.250.060, 28A.150.260, and 28A.150.100; adding a new section to chapter 28A.150 RCW; creating a new section; and providing an effective date."

The President declared the question before the Senate to be motion by Senator McAuliffe to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2065.

The motion by Senator McAuliffe carried and the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator McAuliffe moved that the following striking amendment by Senators Zarelli and Murray be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) Under Article IX of the Washington state Constitution, all children are entitled to an opportunity to receive a basic education. Although the state must

assure that students in public schools have opportunities to participate in the instructional program of basic education, there is no obligation for either the state or school districts to provide that instruction using a particular delivery method or through a particular program.

(2) The legislature finds ample evidence of the need to examine and reconsider policies under which alternative learning that occurs outside the classroom using an individual student learning plan may be considered equivalent to full-time attendance in school, including for funding purposes. Previous legislative studies have raised questions about financial practices and accountability in alternative learning experience programs. Since 2005, there has been significant enrollment growth in alternative learning experience online programs, with evidence of unexpected financial impact when large numbers of nonresident students enroll in programs. Based on this evidence, there is a rational basis on which to conclude that there are different costs associated with providing a program not primarily based on full-time, daily contact between teachers and students and not primarily occurring on-site in a classroom.

(3) For these reasons, the legislature intends to allow for continuing review and revision of the way in which state funding allocations are used to support alternative learning experience programs.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.150 RCW to read as follows:

(1) For purposes of this chapter, "alternative learning experience program" means a course or set of courses that is:

(a) Provided in whole or in part independently from a regular classroom setting or schedule, but may include some components of direct instruction;

(b) Supervised, monitored, assessed, evaluated, and documented by a certificated teacher employed by the school district or under contract as permitted by applicable rules; and

(c) Provided in accordance with a written student learning plan that is implemented pursuant to the school district's policy and rules adopted by the superintendent of public instruction for alternative learning experiences.

(2) The broad categories of alternative learning experience programs include, but are not limited to:

(a) Online programs as defined in RCW 28A.150.262;

(b) Parent partnership programs that include significant participation and partnership by parents and families in the design and implementation of a student's learning experience; and

(c) Contract-based learning programs.

(3) School districts that offer alternative learning experience programs may not provide any compensation, reimbursement, gift, reward, or gratuity to any parents, guardians, or students for participation. School district employees are prohibited from receiving any compensation or payment as an incentive to increase student enrollment of out-of-district students in an alternative learning experience program. This prohibition includes, but is not limited to, providing funds to parents, guardians, or students for the purchase of educational materials, supplies, experiences, services, or technological equipment. A district may purchase educational materials, equipment, or other nonconsumable supplies for students' use in alternative learning experience programs if the purchase is consistent with the district's approved curriculum, conforms to applicable laws and rules, and is made in the same manner as such purchases are made for students in the district's regular instructional program. Items so purchased remain the property of the school district upon program completion. School districts may not purchase or contract for instructional or co-curricular experiences and services that are included in an alternative learning experience written student learning plan, including but not limited to lessons,

trips, and other activities, unless substantially similar experiences and services are available to students enrolled in the district's regular instructional program. School districts that purchase or contract for such experiences and services for students enrolled in an alternative learning experience program must submit an annual report to the office of the superintendent of public instruction detailing the costs and purposes of the expenditures. These requirements extend to contracted providers of alternative learning experience programs, and each district shall be responsible for monitoring the compliance of its providers with these requirements. However, nothing in this section shall prohibit school districts from contracting with online providers approved by the office of the superintendent of public instruction pursuant to chapter 28A.250 RCW.

(4) Part-time enrollment in alternative learning experiences is subject to the provisions of RCW 28A.150.350.

(5) The superintendent of public instruction shall adopt rules defining minimum requirements and accountability for alternative learning experience programs.

**Sec. 3.** RCW 28A.150.262 and 2009 c 542 s 9 are each amended to read as follows:

Under RCW 28A.150.260, the superintendent of public instruction shall revise the definition of a full-time equivalent student to include students who receive instruction through alternative learning experience online programs. As used in this section and section 2 of this act, an "alternative learning experience online program" is a set of online courses or an online school program as defined in RCW 28A.250.010 that is delivered to students in whole or in part independently from a regular classroom schedule. ~~((The superintendent of public instruction has the authority to adopt rules to implement the revised definition beginning with the 2005-2007 biennium for school districts claiming state funding for the programs.))~~ Beginning in the 2013-14 school year, alternative learning experience online programs must be offered by an online provider approved by the superintendent of public instruction under RCW 28A.250.020 to meet the definition in this section. The rules shall include but not be limited to the following:

(1) Defining a full-time equivalent student under RCW 28A.150.260 or part-time student under RCW 28A.150.350 based upon the district's estimated average weekly hours of learning activity as identified in the student's learning plan, as long as the student is found, through monthly evaluation, to be making satisfactory progress; the rules shall require districts providing programs under this section to nonresident students to establish procedures that address, at a minimum, the coordination of student counting for state funding so that no student is counted for more than one full-time equivalent in the aggregate;

(2) Requiring the board of directors of a school district offering, or contracting under RCW 28A.150.305 to offer, an alternative learning experience online program to adopt and annually review written policies for each program and program provider and to receive an annual report on its digital alternative learning experience online programs from its staff;

(3) Requiring each school district offering or contracting to offer an alternative learning experience online program to report annually to the superintendent of public instruction on the types of programs and course offerings, and number of students participating;

(4) Requiring completion of a program self-evaluation;

(5) Requiring documentation of the district of the student's physical residence;

(6) Requiring that supervision, monitoring, assessment, and evaluation of the alternative learning experience online program be provided by a certificated ~~((instructional staff))~~ teacher;

(7) Requiring each school district offering courses or programs to identify the ratio of certificated instructional staff to full-time

equivalent students enrolled in such courses or programs, and to include a description of their ratio as part of the reports required under subsections (2) and (3) of this section;

(8) Requiring reliable methods to verify a student is doing his or her own work; the methods may include proctored examinations or projects, including the use of web cams or other technologies. "Proctored" means directly monitored by an adult authorized by the school district;

(9) Requiring, for each student receiving instruction in an alternative learning experience online program, a learning plan that includes a description of course objectives and information on the requirements a student must meet to successfully complete the program or courses. The rules shall allow course syllabi and other additional information to be used to meet the requirement for a learning plan;

(10) Requiring that the district assess the educational progress of enrolled students at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district. Part-time students shall also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW. The rules shall address how students who reside outside the geographic service area of the school district are to be assessed;

(11) Requiring that each student enrolled in the program have direct personal contact with a certificated ~~((instructional staff))~~ teacher at least weekly until the student completes the course objectives or the requirements in the learning plan. Direct personal contact is for the purposes of instruction, review of assignments, testing, evaluation of student progress, or other learning activities. Direct personal contact may include the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication;

(12) Requiring state-funded public schools or public school programs whose primary purpose is to provide alternative learning experience online learning programs to receive accreditation through the Northwest ~~((association of accredited schools))~~ accreditation commission or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning;

(13) Requiring state-funded public schools or public school programs whose primary purpose is to provide alternative learning experience online learning to provide information to students and parents on whether or not the courses or programs: Cover one or more of the school district's learning goals or of the state's essential academic learning requirements or whether they permit the student to meet one or more of the state's or district's graduation requirements; and

(14) Requiring that a school district that provides one or more alternative learning experience online courses to a student provide the parent or guardian of the student, prior to the student's enrollment, with a description of any difference between home-based education as described in chapter 28A.200 RCW and the enrollment option selected by the student. The parent or guardian shall sign documentation attesting to his or her understanding of the difference and the documentation shall be retained by the district and made available for audit.

**Sec. 4.** RCW 28A.250.005 and 2009 c 542 s 1 are each amended to read as follows:

(1) The legislature finds that online learning provides tremendous opportunities for students to access curriculum, courses, and a unique learning environment that might not otherwise be



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

available. The legislature supports and encourages online learning opportunities.

(2) However, the legislature also finds that there is a need to assure quality in online learning, both for the programs and the administration of those programs. The legislature is the steward of public funds that support students enrolled in online learning and must ensure an appropriate accountability system at the state level.

(3) Therefore, the legislature intends to take a first step in improving oversight and quality assurance of online learning programs, and intends to examine possible additional steps that may need to be taken to improve financial accountability.

(4) The first step in improving quality assurance is to:

(a) Provide objective information to students, parents, and educators regarding available online learning opportunities, including program and course content, how to register for programs and courses, teacher qualifications, student-to-teacher ratios, prior course completion rates, and other evaluative information;

(b) Create an approval process for (~~multidistrict~~) online providers;

(c) Enhance statewide equity of student access to high quality online learning opportunities; and

(d) Require school district boards of directors to develop policies and procedures for student access to online learning opportunities.

**Sec. 5.** RCW 28A.250.010 and 2009 c 542 s 2 are each amended to read as follows:

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

(1)(a) "Multidistrict online provider" means:

(i) A private or nonprofit organization that enters into a contract with a school district to provide online courses or programs to K-12 students from more than one school district;

(ii) A private or nonprofit organization that enters into contracts with multiple school districts to provide online courses or programs to K-12 students from those districts; or

(iii) Except as provided in (b) of this subsection, a school district that provides online courses or programs to students who reside outside the geographic boundaries of the school district.

(b) "Multidistrict online provider" does not include a school district online learning program in which fewer than ten percent of the students enrolled in the program are from other districts under the interdistrict student transfer provisions of RCW 28A.225.225. "Multidistrict online provider" also does not include regional online learning programs that are jointly developed and implemented by two or more school districts or an educational service district through an interdistrict cooperative program agreement that addresses, at minimum, how the districts share student full-time equivalency for state basic education funding purposes and how categorical education programs, including special education, are provided to eligible students.

(2)(a) "Online course" means a course (~~that~~) where:

(i) More than half of the course content is delivered (~~primarily~~) electronically using the internet or other computer-based methods; and

(ii) (Is taught by a teacher primarily from a remote location. Students enrolled in an online course may have access to the teacher synchronously, asynchronously, or both) More than half of the teaching is conducted from a remote location through an online course learning management system or other online or electronic tools.

(b) "Online school program" means a school program that:

(i) Offers courses or grade-level coursework that is delivered primarily electronically using the internet or other computer-based methods;

(ii) Offers courses or grade-level coursework that is taught by a teacher primarily from a remote location using online or other electronic tools. Students enrolled in an online program may have access to the teacher synchronously, asynchronously, or both;

(iii) (~~Delivers a part-time or full-time sequential program~~) Offers a sequential set of online courses or grade-level coursework that may be taken in a single school term or throughout the school year in a manner that could provide a full-time basic education program if so desired by the student. Students may enroll in the program as part-time or full-time students; and

(iv) Has an online component of the program with online lessons and tools for student and data management.

(c) An online course or online school program may be delivered to students at school as part of the regularly scheduled school day. An online course or online school program also may be delivered to students, in whole or in part, independently from a regular classroom schedule, but such courses or programs must comply with RCW 28A.150.262 to qualify for state basic education funding.

(3) "Online provider" means any provider of an online course or program, including multidistrict online providers, all school district online learning programs, and all regional online learning programs.

**Sec. 6.** RCW 28A.250.020 and 2009 c 542 s 3 are each amended to read as follows:

(1) The superintendent of public instruction, in collaboration with the state board of education, shall develop and implement approval criteria and a process for approving (~~multidistrict~~) online providers; a process for monitoring and if necessary rescinding the approval of courses or programs offered by an online (~~course~~) provider; and an appeals process. The criteria and processes for multidistrict online providers shall be adopted by rule by December 1, 2009.

(2) When developing the approval criteria, the superintendent of public instruction shall require that providers offering online courses or programs have accreditation through the Northwest (~~association of accredited schools~~) accreditation commission or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning. In addition to other criteria, the approval criteria shall include the degree of alignment with state academic standards and require that all teachers be certificated in accordance with Washington state law. When reviewing (~~multidistrict~~) online providers that offer high school courses, the superintendent of public instruction shall assure that the courses offered by the provider are eligible for high school credit. However, final decisions regarding the awarding of high school credit shall remain the responsibility of school districts.

(3) Initial approval of (~~multidistrict~~) online providers by the superintendent of public instruction shall be for four years. The superintendent of public instruction shall develop a process for the renewal of approvals and for rescinding approvals based on noncompliance with approval requirements. Any multidistrict online provider that was approved by the digital learning commons or accredited by the Northwest association of accredited schools before July 26, 2009, and that meets the teacher certification requirements of subsection (2) of this section, is exempt from the initial approval process under this section until August 31, 2012, but must comply with the process for renewal of approvals and must comply with approval requirements.

(4) The superintendent of public instruction shall make the first round of decisions regarding approval of multidistrict online providers by April 1, 2010. The first round of decisions regarding approval of online providers that are not multidistrict online providers shall be made by April 1, 2013. Thereafter, the superintendent of public instruction shall make annual approval decisions no later than November 1st of each year.

(5) The superintendent of public instruction shall establish an online learning advisory committee within existing resources that shall provide advice to the superintendent regarding the approval criteria, major components of the web site, the model school district policy, model agreements, and other related matters. The committee shall include a representative of each of the following groups: Private and public online providers, parents of online students, accreditation organizations, educational service districts, school principals, teachers, school administrators, school board members, institutions of higher education, and other individuals as determined by the superintendent. Members of the advisory committee shall be selected by the superintendent based on nominations from statewide organizations, shall serve three-year terms, and may be reappointed. The superintendent shall select the chair of the committee.

**Sec. 7.** RCW 28A.250.030 and 2009 c 542 s 4 are each amended to read as follows:

The superintendent of public instruction shall create an office of online learning. In the initial establishment of the office, the superintendent shall hire staff who have been employed by the digital learning commons to the extent such hiring is in accordance with state law and to the extent funds are available. The office shall:

(1) Develop and maintain a web site that provides objective information for students, parents, and educators regarding online learning opportunities offered by ((~~multidistrict~~)) online providers that have been approved in accordance with RCW 28A.250.020. The web site shall include information regarding the online course provider's overall instructional program, specific information regarding the content of individual online courses and online school programs, a direct link to each online course provider's web site, how to register for online learning programs and courses, teacher qualifications, student-to-teacher ratios, course completion rates, and other evaluative and comparative information. The web site shall also provide information regarding the process and criteria for approving ((~~multidistrict~~)) online providers. To the greatest extent possible, the superintendent shall use the framework of the course offering component of the web site developed by the digital learning commons;

(2) Develop model agreements with approved ((~~multidistrict~~)) online providers that address standard contract terms and conditions that may apply to contracts between a school district and the approved provider. The purpose of the agreements is to provide a template to assist individual school districts, at the discretion of the district, in contracting with ((~~multidistrict~~)) online providers to offer the ((~~multidistrict~~)) online provider's courses and programs to students in the district. The agreements may address billing, fees, responsibilities of online course providers and school districts, and other issues; and

(3) In collaboration with the educational service districts:

(a) Provide technical assistance and support to school district personnel through the educational technology centers in the development and implementation of online learning programs in their districts; and

(b) To the extent funds are available, provide online learning tools for students, teachers, administrators, and other educators.

**Sec. 8.** RCW 28A.250.060 and 2009 c 542 s 7 are each amended to read as follows:

(1) Beginning with the 2011-12 school year, school districts may claim state ((~~basic education~~)) funding under RCW 28A.150.260, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are:

(a) Offered by a multidistrict online provider approved under RCW 28A.250.020 by the superintendent of public instruction;

(b) Offered by a school district online learning program if the program serves students who reside within the geographic boundaries of the school district, including school district programs in which fewer than ten percent of the program's students reside outside the school district's geographic boundaries; or

(c) Offered by a regional online learning program where courses are jointly developed and offered by two or more school districts or an educational service district through an interdistrict cooperative program agreement.

(2) Beginning with the 2013-14 school year, school districts may claim state funding under RCW 28A.150.260, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are offered by an online provider approved under RCW 28A.250.020 by the superintendent of public instruction.

(3) Criteria shall be established by the superintendent of public instruction to allow online courses that have not been approved by the superintendent of public instruction to be eligible for state funding if the course is in a subject matter in which no courses have been approved and, if it is a high school course, the course meets Washington high school graduation requirements.

**Sec. 9.** RCW 28A.150.260 and 2010 c 236 s 2 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(b) The total aggregate statewide allocations calculated under subsections (4) through (12) of this section for full-time equivalent student enrollment in alternative learning experience programs as defined in section 2 of this act shall be reduced by fifteen percent for the 2011-12 and 2012-13 school years. The superintendent of public instruction shall determine how to implement this aggregate fifteen percent reduction among the different alternative learning experience programs. No program may receive less than a ten percent reduction and no program may receive greater than a twenty percent reduction. In determining how to implement the reductions among the alternative learning experience programs, the superintendent of public instruction must look to both how a program is currently operating as well as how it has operated in the past, to the extent that data is available, and must give consideration to the following criteria:

- (i) The category of program;
- (ii) The certificated instructional staffing ratio maintained by the program;
- (iii) The amount and type of direct personal student-to-teacher contact used by the program on a weekly basis;
- (iv) Whether the program uses any classroom-based instructional time to meet requirements in the written student learning plan for enrolled students; and
- (v) For online programs, whether the program is approved by the superintendent of public instruction under RCW 28A.250.020.

(c) The superintendent of public instruction shall report to the legislature by December 31, 2011, regarding how the reductions in (b) of this subsection were implemented.

(d) For the purposes of this section, prototypical schools are defined as follows:

- (i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;
- (ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and
- (iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

(4)(a) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

General education average class size	
Grades K-3	25.23
Grade 4	27.00
Grades 5-6	27.00
Grades 7-8	28.53
Grades 9-12	28.74

(b) During the 2011-2013 biennium and beginning with schools with the highest percentage of students eligible for free and reduced-price meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no more than 17.0 full-time equivalent students per teacher beginning in the 2017-18 school year.

(c) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom

teachers based on the following number of full-time equivalent students per teacher in career and technical education:

Career and technical education average class size	
Approved career and technical education offered at the middle school and high school level	26.57
Skill center programs meeting the standards established by the office of the superintendent of public instruction	22.76

(d) In addition, the omnibus appropriations act shall at a minimum specify:

- (i) A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and
  - (ii) A specialty average class size for laboratory science, advanced placement, and international baccalaureate courses.
- (5) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

	Elementary School	Middle School	High School
Principals, assistant principals, and other certificated building-level administrators.....	1.253	1.3	1.8
Teacher librarians, a function that includes information literacy, technology, and media to support school library media programs.....	0.663	0.5	0.5
Health and social services:			
School nurses.....	0.076	0.0	0.0
Social workers.....	0.042	0.0	0.0
Psychologists.....	0.017	0.0	0.0
Guidance counselors, a function that includes parent outreach and graduation advising.....	0.493	1.1	1.9
Teaching assistance, including any aspect of educational instructional services provided by classified employees....	0.936	0.7	0.6
Office support and other noninstructional aides.....	2.012	2.3	3.2
Custodians.....	1.657	1.9	2.9
Classified staff providing student and staff safety.....	0.079	0.0	0.1
Parent involvement coordinators.....	0.00	0.0	0.0

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

Staff per 1,000 K-12 students

Technology	0.628
Facilities, maintenance, and grounds	1.813
Warehouse, laborers, and mechanics	0.332

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (b) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs, to be adjusted for inflation from the 2008-09 school year:

Per annual average full-time equivalent student in grades K-12	
Technology	\$54.43
Utilities and insurance	\$147.90
Curriculum and textbooks	\$58.44
Other supplies and library materials	\$124.07
Instructional professional development for certified and classified staff	\$9.04
Facilities maintenance	\$73.27
Security and central office	\$50.76

(b) During the 2011-2013 biennium, the minimum allocation for maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

Per annual average full-time equivalent student in grades K-12	
Technology	\$113.80
Utilities and insurance	\$309.21
Curriculum and textbooks	\$122.17
Other supplies and library materials	\$259.39
Instructional professional development for certificated and classified staff	\$18.89
Facilities maintenance	\$153.18
Security and central office administration	\$106.12

(9) In addition to the amounts provided in subsection (8) of this section, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

(a) Exploratory career and technical education courses for students in grades seven through twelve;

(b) Laboratory science courses for students in grades nine through twelve;

(c) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and

(d) Preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

(10) In addition to the allocations otherwise provided under this section, amounts shall be provided to support the following programs and services:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the district percentage of students in grades K-12 who were eligible for free or reduced-price meals in the prior school year. The minimum allocation for the program shall provide for each level of prototypical school resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide resources to provide, on a statewide average, 4.7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher.

(c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a) and (b), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

**Sec. 10.** RCW 28A.150.100 and 2010 c 236 s 13 are each amended to read as follows:

(1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" means all full-time equivalent classroom teachers, teacher librarians, guidance counselors, certificated student health services staff, and other certificated instructional staff in the following programs as defined for statewide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) Each school district shall maintain a ratio of at least forty-six basic education certificated instructional staff to one thousand annual average full-time equivalent students. This requirement does not apply to that portion of a district's annual average full-time equivalent enrollment that is enrolled in alternative learning experience programs as defined in section 2 of this act.

**NEW SECTION. Sec. 11.** Sections 9 and 10 of this act take effect September 1, 2011.

**NEW SECTION. Sec. 12.** Section 9 of this act expires July 1, 2013."

Senator McAuliffe spoke in favor of adoption of the striking amendment.

#### MOTION

Senator Tom moved that the following amendment by Senators Tom and Litzow to the striking amendment be adopted:

On page 9, beginning on line 7 of the amendment, after "credit." strike all material through "districts." on line 9 and insert "However, final decisions regarding ~~((the awarding of high school credit))~~ whether credit meets the school district's graduation requirements shall remain the responsibility of the school districts."

On page 19, after line 28 of the amendment, insert the following:

**"Sec. 11.** RCW 28A.250.050 and 2009 c 542 s 6 are each amended to read as follows:

(1) By August 31, 2010, all school district boards of directors shall develop policies and procedures regarding student access to online courses and online learning programs. The policies and procedures shall include but not be limited to: Student eligibility criteria; the types of online courses available to students through the school district; the methods districts will use to support student success, which may include a local advisor; when the school district will and will not pay course fees and other costs; the granting of high school credit; and a process for students and parents or guardians to formally acknowledge any course taken for which no credit is given. The policies and procedures shall take effect beginning with the 2010-11 school year. School districts shall submit their policies to the superintendent of public instruction by September 15, 2010. By December 1, 2010, the superintendent of public instruction shall summarize the school district policies regarding student access to online courses and submit a report to the legislature.

(2) School districts must award credit for online high school courses successfully completed by a student that meet the school district's graduation requirements and are provided by an approved online provider.

(3) School districts shall provide students with information regarding online courses that are available through the school district. The information shall include the types of information described in subsection (1) of this section.

~~((3))~~ (4) When developing local or regional online learning programs, school districts shall incorporate into the program design the approval criteria developed by the superintendent of public instruction under RCW 28A.250.020."

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

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Tom and Litzow on page 9, line 7 to the striking amendment to Engrossed Substitute House Bill No. 2065.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Zarelli and Murray as amended to Engrossed Substitute House Bill No. 2065.

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

#### MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 2 of the title, after "experiences;" strike the remainder of the title and insert "amending RCW 28A.150.262, 28A.250.005, 28A.250.010, 28A.250.020, 28A.250.030, 28A.250.060, 28A.150.260, and 28A.150.100; adding a new section to chapter 28A.150 RCW; creating a new section; providing an effective date; and providing an expiration date."

On page 20, line 4 of the title amendment, after "28A.150.260," strike "and 28A.150.100" and insert "28A.150.100, and 28A.250.050"

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute House Bill No. 2065 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

#### POINT OF INQUIRY

Senator Hatfield: "Would Senator McAuliffe yield to a question? Thank you Senator McAuliffe. Does this bill impact the assessment requirements for students participating in alternative learning experience programs in any way?"

Senator McAuliffe: "Thank you Senator. No. This current law requires that districts assess the educational progress of students enrolled in alternative learning programs in the same way as any other students enrolled in their district. This bill does not change those requirements. Thank you for asking."

Senators Carrell and Ranker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2065 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2065 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 34; Nays, 11; Absent, 0; Excused, 4.

Voting yea: Senators Baxter, Brown, Carrell, Chase, Conway, Delvin, Eide, Fraser, Hargrove, Haugen, Hewitt, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Becker, Ericksen, Fain, Harper, Hatfield, Hill, Holmquist Newbry, Honeyford, Roach and Swecker

Excused: Senators Benton, Hobbs, Nelson and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2065 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5919, by Senators Murray and Zarelli

Regarding education funding.

### MOTION

On motion of Senator McAuliffe, Substitute Senate Bill No. 5919 was substituted for Senate Bill No. 5919 and the substitute bill was placed on the second reading and read the second time.

### MOTION

Senator McAuliffe moved that the following amendment by Senator Murray be adopted:

On page 11, starting on line 36, strike all of section 4, through page 14, line 21.

On page 15, starting on line 9, strike all of section 6, through page 16, line 19.

On page 19, starting on line 14, strike all of section 8, through page 19, line 18.

On page 1, line 3, after, "28A.630.016; ", strike, " reenacting and amending RCW 28A.290.010 and 28A.505.220; repealing RCW 28A.505.220;"

Senator McAuliffe spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Murray on page 11, line 36 to Substitute Senate Bill No. 5919.

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

### MOTION

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Litzow be adopted:

On page 19, after line 13, insert the following:

"Sec. 8. RCW 28A.655.061 and 2010 c 244 s 1 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)~~) 2015, 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

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

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 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. Student learning plans are required for eighth grade students who were not successful on any or all of the content areas of the state assessment 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:

- (a) The student's results on the state assessment;
- (b) If the student is in the transitional bilingual program, the score on his or her Washington language proficiency test II;
- (c) Any credit deficiencies;
- (d) The student's attendance rates over the previous two years;
- (e) The student's progress toward meeting state and local graduation requirements;
- (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;
- (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;
- (h) The alternative assessment options available to students under this section and RCW 28A.655.065;
- (i) School district programs, high school courses, and career and technical education options available for students to meet graduation requirements; and
- (j) Available programs offered through skill centers or community and technical colleges, including the college high school diploma options under RCW 28B.50.535."

Remember the remaining sections consecutively and correct any internal references accordingly.

On page 19, line 16, after "c ... s" strike "5" and insert "6"  
Senator McAuliffe spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and Litzow on page 19, after line 13 to Substitute Senate Bill No. 5919.

The motion by Senator McAuliffe carried and the 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 "28A.300.380," strike "and" and after "28A.630.016" insert ", and 28A.655.061"

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute Senate Bill No. 5919 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

#### POINT OF INQUIRY

Senator Roach: "Would Senator McAuliffe yield to a question? Thank you Senator. So, in the effect of the changes made by Ways and Means, it seems to me in the original bill there

was going to be a removing of the national board bonuses. So, then when we read in the effect here of the amendment it says, 'Previous revisions regarding I-732 COLAs and teachers national board bonuses are removed' that is to say again that the teacher national bonuses, board bonuses are in fact retained?"

Senator McAuliffe: "Yes, they are Senator."

Senator Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5919.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5919 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 11; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Ericksen, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Carrell, Delvin, Fain, Hill, Holmquist Newbry, Honeyford, Litzow, Pflug and Sheldon

Excused: Senators Benton, Hobbs, Nelson and Shin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5919, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

#### MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5459 with the following amendment(s): 5459-S2 AMH WAYS H2891.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that:

(1) A developmental disability is a natural part of human life and the presence of a developmental disability does not diminish a person's rights or the opportunity to participate in the life of the local community;

(2) The system of services for people with developmental disabilities should provide a balanced range of health, social, and supportive services at home or in other residential settings. The receipt of services should be coordinated so as to minimize administrative cost and service duplication, and eliminate unnecessarily complex system organization;

(3) The public interest would best be served by a broad array of services that would support people with developmental disabilities at home or in the community, whenever practicable, and that promote individual autonomy, dignity, and choice;

(4) In Washington state, people living in residential habilitation centers and their families are satisfied with the services they receive,

and deserve to continue receiving services that meet their needs if they choose to receive those services in a community setting;

(5) As other care options for people with developmental disabilities become more available, the relative need for residential habilitation center beds is likely to decline. The legislature recognizes, however, that residential habilitation centers will continue to be a critical part of the state's long-term care options; and that such services should promote individual dignity, autonomy, and a home-like environment; and

(6) In a time of fiscal restraint, the state should consider the needs of all persons with developmental disabilities and spend its limited resources in a manner that serves more people, while not compromising the care people require.

NEW SECTION. Sec. 2. It is the intent of the legislature that:

(1) Community-based residential services supporting people with developmental disabilities should be available in the most integrated setting appropriate to individual needs; and

(2) An extensive transition planning and placement process should be used to ensure that people moving from a residential habilitation center to a community setting have the services and supports needed to meet their assessed health and welfare needs.

Sec. 3. RCW 71A.10.020 and 2010 c 94 s 21 are each amended to read as follows:

As used in this title, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Community residential support services," or "community support services," and "in-home services" means one or more of the services listed in RCW 71A.12.040.

(2) "Crisis stabilization services" means services provided to persons with developmental disabilities who are experiencing behaviors that jeopardize the safety and stability of their current living situation. Crisis stabilization services include:

(a) Temporary intensive services and supports, typically not to exceed sixty days, to prevent psychiatric hospitalization, institutional placement, or other out-of-home placement; and

(b) Services designed to stabilize the person and strengthen their current living situation so the person may continue to safely reside in the community during and beyond the crisis period.

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

~~((3))~~ (4) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual. By January 1, 1989, the department shall promulgate rules which define neurological or other conditions in a way that is not limited to intelligence quotient scores as the sole determinant of these conditions, and notify the legislature of this action.

~~((4))~~ (5) "Eligible person" means a person who has been found by the secretary under RCW 71A.16.040 to be eligible for services.

~~((5))~~ (6) "Habilitation services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and to raise their levels of physical, mental, social, and vocational functioning. Habilitation services include education, training for employment, and therapy.

~~((6))~~ (7) "Legal representative" means a parent of a person who is under eighteen years of age, a person's legal guardian, a person's limited guardian when the subject matter is within the scope of the limited guardianship, a person's attorney-at-law, a



THIRTIETH DAY, MAY 25, 2011

person's attorney-in-fact, or any other person who is authorized by law to act for another person.

~~((7))~~ (8) "Notice" or "notification" of an action of the secretary means notice in compliance with RCW 71A.10.060.

~~((8))~~ (9) "Residential habilitation center" means a state-operated facility for persons with developmental disabilities governed by chapter 71A.20RCW.

~~((9))~~ (10) "Respite services" means relief for families and other caregivers of people with disabilities, typically not to exceed ninety days, to include both in-home and out-of-home respite care on an hourly and daily basis, including twenty-four hour care for several consecutive days. Respite care workers provide supervision, companionship, and personal care services temporarily replacing those provided by the primary caregiver of the person with disabilities. Respite care may include other services needed by the client, including medical care which must be provided by a licensed health care practitioner.

(11) "Secretary" means the secretary of social and health services or the secretary's designee.

~~((10))~~ (12) "Service" or "services" means services provided by state or local government to carry out this title.

~~((11))~~ (13) "State-operated living alternative" means programs for community residential services which may include assistance with activities of daily living, behavioral, habilitative, interpersonal, protective, medical, nursing, and mobility supports to individuals who have been assessed by the department as meeting state and federal requirements for eligibility in home and community-based waiver programs for individuals with developmental disabilities. State-operated living alternatives are operated and staffed with state employees.

(14) "Supported living" means community residential services and housing which may include assistance with activities of daily living, behavioral, habilitative, interpersonal, protective, medical, nursing, and mobility supports provided to individuals with disabilities who have been assessed by the department as meeting state and federal requirements for eligibility in home and community-based waiver programs for individuals with developmental disabilities. Supported living services are provided under contracts with private agencies or with individuals who are not state employees.

(15) "Vacancy" means an opening at a residential habilitation center, which when filled, would not require the center to exceed its biennially budgeted capacity.

**Sec. 4.** RCW 71A.20.010 and 1988 c 176 s 701 are each amended to read as follows:

(1) This chapter covers the operation of residential habilitation centers. The selection of persons to be served at the centers is governed by chapters 71A.16 and 71A.18 RCW. The purposes of this chapter are: To provide for those ~~((children and adults))~~ persons who are exceptional in their needs for care, treatment, and education by reason of developmental disabilities, residential care designed to develop their individual capacities to their optimum; to provide for admittance, withdrawal and discharge from state residential habilitation centers upon application; and to insure a comprehensive program for the education, guidance, care, treatment, and rehabilitation of all persons admitted to residential habilitation centers.

(2) Effective no later than July 1, 2012, no person under the age of sixteen years may be admitted to receive services at a residential habilitation center. Effective no later than July 1, 2012, no person under the age of twenty-one years may be admitted to receive services at a residential center, unless there are no service options available in the community to appropriately meet the needs of the individual. Such admission is limited to the provision of short-term respite or crisis stabilization services.

2011 1ST SPECIAL SESSION

**Sec. 5.** RCW 71A.20.020 and 1994 c 215 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the following residential habilitation centers are permanently established to provide services to persons with developmental disabilities: Lakeland Village, located at Medical Lake, Spokane county; Rainier School, located at Buckley, Pierce county; Yakima Valley School, located at Selah, Yakima county; and Fircrest School, located at Seattle, King county~~((; and Frances Haddon Morgan Children's Center, located at Bremerton, Kitsap county))~~.

(2) The Yakima Valley School, located at Selah, Yakima county, shall cease to operate as a residential habilitation center when the conditions in section 6(2)(b) are met.

NEW SECTION. **Sec. 6.** A new section is added to chapter 71A.20 RCW to read as follows:

(1) By December 31, 2011, the department shall:

(a) Close Frances Haddon Morgan residential rehabilitation center and relocate current residents consistent with the requirements of section 7 of this act; and

(b) Establish at least two state operating living alternatives on the campus of the Frances Haddon Morgan center, if residents have chosen to receive care in such a setting and subject to federal requirements related to the receipt of federal medicaid matching funds.

(2)(a) Upon the effective date of this section, the department shall not permit any new admission to Yakima Valley School unless such admission is limited to the provision of short-term respite or crisis stabilization services. Except as provided in (b) of this subsection, no current permanent resident of Yakima Valley School shall be required or compelled to relocate to a different care setting as a result of this act.

(b) The Yakima Valley School shall continue to operate as a residential habilitation center until such time that the census of permanent residents has reached sixteen persons. As part of the closure plan, at least two cottages will be converted to state-operated living alternatives, subject to federal requirements related to the receipt of federal medicaid matching funds.

(3) To assure the successful implementation of subsections (1) and (2) of this section, the department, within available funds:

(a) Shall establish state-operated living alternatives to provide community residential services to residential habilitation center residents transitioning to the community under this act who prefer a state-operated living alternative. The department shall offer residential habilitation center employees opportunities to work in state-operated living alternatives as they are established;

(b) May use existing supported living program capacity in the community for former residential habilitation center residents who prefer and choose a supported living program;

(c) Shall continue to staff and operate at Yakima Valley School crisis stabilization beds and respite service beds at the existing bed capacity as of June 1, 2011, for individuals with developmental disabilities requiring such services;

(d) Shall establish up to eight state-staffed crisis stabilization beds and up to eight state-staffed respite beds based upon funding provided in the appropriations act and the geographic areas with the greatest need for those services; and

(e) Shall establish regional or mobile specialty services evenly distributed throughout the state, such as dental care, physical therapy, occupational therapy, and specialized nursing care, which can be made available to former residents of residential habilitation centers and, within available funds, other individuals with developmental disabilities residing in the community.

NEW SECTION. **Sec. 7.** A new section is added to chapter 71A.20 RCW to read as follows:

The department:

(1) May, within sixty days of admission to a residential habilitation center, ensure that each resident's individual habilitation plan includes a plan for discharge to the community;

(2) Shall use a person-centered approach in developing the discharge plan to assess the resident's needs and identify services the resident requires to successfully transition to the community, including:

(a) Engaging families and guardians of residents by offering family-to-family mentoring provided by family members who themselves experienced moving a family member with developmental disabilities from an institution to the community. The department shall contract with the developmental disabilities council to provide mentoring services;

(b) Employees of the residential habilitation centers and the department providing transition planning for residents. To strengthen continuity of care for residents leaving residential habilitation centers, the department shall provide opportunities for residential habilitation center employees to obtain employment in state-operated living alternatives;

(c) Providing choice of community living options and providers, consistent with federal requirements, including offering to place, with the consent of the resident or his or her guardian, each resident of the residential habilitation center on the appropriate home and community-based waiver, as authorized under 42 U.S.C. Sec. 1396n, and provide continued access to the services that meet his or her assessed needs;

(d) Providing residents and their families or guardians opportunities to visit state-operated living alternatives and supported living options in the community;

(e) Offering residents leaving a residential habilitation center a "right to return" to a residential habilitation center during the first year following their move;

(f) Addressing services in addition to those that will be provided by residential services providers that are necessary to address the resident's assessed needs, including:

- (i) Medical services;
- (ii) Nursing services;
- (iii) Dental care;
- (iv) Behavioral and mental health supports;
- (v) Habilitation services;
- (vi) Employment or other day support; and

(vii) Transportation or other supports needed to assist family and friends in maintaining regular contact with the resident;

(3) Shall assure that, prior to discharge from a residential habilitation center, clients continue to be eligible for services for which they have an assessed need;

(4) Shall maximize federal funding for transitioning clients through the roads to community living grant;

(5) Shall limit the ability of a state-operated living alternative to reject clients;

(6) Shall use any savings achieved through efficiencies to extend services, including state-staffed crisis stabilization and respite services, to people with developmental disabilities currently receiving limited or no services; and

(7)(a) Shall employ the quality assurance process currently in use by the department to monitor the adjustment of each resident who leaves a residential habilitation center; and

(b) Convene a work group to review findings from the quality assurance for people moving process and provide feedback on the transition process. The work group shall include representatives of the developmental disabilities council, disability rights Washington, University of Washington center for human development and disability, providers, and families and advocates of persons with disabilities.

**NEW SECTION. Sec. 8.** A new section is added to chapter 70.02 RCW to read as follows:

(1) A developmental disability service system task force is established.

(2) The task force shall be convened by September 1, 2011, and consist of the following members:

(a) Two members of the house of representatives appointed by the speaker of the house of representatives, from different political caucuses;

(b) Two members of the senate appointed by the president of the senate, from different political caucuses;

(c) The following members appointed by the governor:

(i) Two advocates for people with developmental disabilities;

(ii) A representative from the developmental disabilities council;

(iii) A representative of families of residents in residential habilitation centers;

(iv) Two representatives of labor unions representing workers who serve residents in residential habilitation centers;

(d) The secretary of the department of social and health services or their designee; and

(e) The secretary of the department of general administration or their designee.

(3) The members of the task force shall select the chair or co-chairs of the task force.

(4) Staff assistance for the task force will be provided by legislative staff and staff from the agencies listed in subsection (2) of this section.

(5) The task force shall make recommendations on:

(a) The development of a system of services for persons with developmental disabilities that is consistent with the goals articulated in section 1 of this act;

(b) The state's long-term needs for residential habilitation center capacity, including the benefits and disadvantages of maintaining one center in eastern Washington and one center in western Washington;

(c) A plan for efficient consolidation of institutional capacity, including whether one or more centers should be downsized or closed and, if so, a time frame for closure;

(d) Mechanisms through which any savings that result from the downsizing, consolidation, or closure of residential habilitation center capacity can be used to create additional community-based capacity;

(e) Strategies for the use of surplus property that results from the closure of one or more centers;

(f) Strategies for reframing the mission of Yakima Valley School consistent with this act that consider:

(i) The opportunity, where cost-effective, to provide medical services, including centers of excellence, to other clients served by the department; and

(ii) The creation of a treatment team consisting of crisis stabilization and short-term respite services personnel, with the long-term goal of expanding to include the provisions of specialty services such as dental care, physical therapy, occupational therapy, and specialized nursing care to individuals with developmental disabilities residing in the surrounding community.

(6) The task force shall report their recommendations to the appropriate committees of the legislature by December 1, 2012.

**Sec. 9.** RCW 71A.18.040 and 1989 c 175 s 142 are each amended to read as follows:

(1) A person who is receiving a service under this title or the person's legal representative may request the secretary to authorize a service that is available under this title in place of a service that the person is presently receiving.

(2) The secretary upon receiving a request for change of service shall consult in the manner provided in RCW 71A.10.070 and within ninety days shall determine whether the following criteria are met:

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(a) The alternative plan proposes a less dependent program than the person is participating in under current service;

(b) The alternative service is appropriate under the goals and objectives of the person's individual service plan;

(c) The alternative service is not in violation of applicable state and federal law; and

(d) The service can reasonably be made available.

(3) If the requested alternative service meets all of the criteria of subsection (2) of this section, the service shall be authorized as soon as reasonable, but not later than one hundred twenty days after completion of the determination process, unless the secretary determines that:

(a) The alternative plan is more costly than the current plan;

(b) Current appropriations are not sufficient to implement the alternative service without reducing services to existing clients; or

(c) Providing alternative service would take precedence over other priorities for delivery of service.

(4) The secretary shall give notice as provided in RCW 71A.10.060 of the grant of a request for a change of service. The secretary shall give notice as provided in RCW 71A.10.060 of denial of a request for change of service and of the right to an adjudicative proceeding.

(5)(a) When the secretary has changed service from a residential habilitation center to a setting other than a residential habilitation center, the secretary shall reauthorize service at the residential habilitation center if the secretary in reevaluating the needs of the person finds that the person needs service in a residential habilitation center.

(b) A person who has moved from a residential habilitation center that has closed to a community-based setting shall be offered a right to return to a residential habilitation center during the first year following their move to the community.

(6) If the secretary determines that current appropriations are sufficient to deliver additional services without reducing services to persons who are presently receiving services, the secretary is authorized to give persons notice under RCW 71A.10.060 that they may request the services as new services or as changes of services under this section.

**Sec. 10.** RCW 71A.20.080 and 1989 c 175 s 143 are each amended to read as follows:

(1) Whenever in the judgment of the secretary, the treatment and training of any resident of a residential habilitation center has progressed to the point that it is deemed advisable to return such resident to the community, the secretary may grant placement on such terms and conditions as the secretary may deem advisable after consultation in the manner provided in RCW 71A.10.070. The secretary shall give written notice of the decision to return a resident to the community as provided in RCW 71A.10.060. The notice must include a statement advising the recipient of the right to an adjudicative proceeding under RCW 71A.10.050 and the time limits for filing an application for an adjudicative proceeding. The notice must also include a statement advising the recipient of the right to judicial review of an adverse adjudicative order as provided in chapter 34.05 RCW.

(2) A placement decision shall not be implemented at any level during any period during which an appeal can be taken or while an appeal is pending and undecided, unless authorized by court order so long as the appeal is being diligently pursued.

((The department of social and health services shall periodically evaluate at reasonable intervals the adjustment of the resident to the specific placement to determine whether the resident should be continued in the placement or returned to the institution or given a different placement.))

**NEW SECTION. Sec. 11.** A new section is added to chapter 71A.20 RCW to read as follows:

Beginning November 1, 2012, and annually thereafter, the department shall submit information to the appropriate committees of the legislature regarding persons who have transitioned from residential habilitation centers to the community, for the first two years following each person's new placement, including:

(1) Progress toward meeting the requirements of this act;

(2) Client and guardian satisfaction with services;

(3) Stability of placement and provider turnover, including information on returns to a residential habilitation center under section 7(2)(e) of this act;

(4) Safety and health outcomes;

(5) Types of services received by clients transitioned to the community; and

(6) Continued accessibility of former residents to family.

**Sec. 12.** RCW 71A.20.170 and 2008 c 265 s 1 are each amended to read as follows:

(1) The developmental disabilities community trust account is created in the state treasury. All net proceeds from the use of excess property identified in the 2002 joint legislative audit and review committee capital study or other studies of the division of developmental disabilities residential habilitation centers (~~at Lakeland Village, Yakima Valley school, Francis Haddon Morgan Center, and Rainier school~~) that would not impact current residential habilitation center operations must be deposited into the account.

(2) Proceeds may come from the lease of the land, conservation easements, sale of timber, or other activities short of sale of the property, except as permitted under section 7 of this act.

(3) "Excess property" includes that portion of the property at Rainier school previously under the cognizance and control of Washington State University for use as a dairy/forage research facility.

(4) Only investment income from the principal of the proceeds deposited into the trust account may be spent from the account. For purposes of this section, "investment income" includes lease payments, rent payments, or other periodic payments deposited into the trust account. For purposes of this section, "principal" is the actual excess land from which proceeds are assigned to the trust account.

(5) Moneys in the account may be spent only after appropriation. Expenditures from the account shall be used exclusively to provide family support and/or employment/day services to eligible persons with developmental disabilities who can be served by community-based developmental disability services. It is the intent of the legislature that the account should not be used to replace, supplant, or reduce existing appropriations.

(6) The account shall be known as the Dan Thompson memorial developmental disabilities community trust account.

**NEW SECTION. Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 14.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

**NEW SECTION. Sec. 15.** Section 7 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2011."

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 Second Substitute Senate Bill No. 5459.

Senator Hargrove spoke in favor of the motion.

Senator Chase spoke against the motion.

#### PARLIAMENTARY INQUIRY

Senator Stevens: "I have four orders of consideration and I find this bill on none of them. Have I missed one of the orders of consideration sheets or can somebody...?"

#### REPLY BY THE PRESIDENT

President Owen: "No, they're not on the orders of consideration. It's on the concurrence calendar."

Senator Roach spoke against 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 Second Substitute Senate Bill No. 5459.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5459 by voice vote.

Senators Hargrove, King and Kline spoke in favor of passage of the bill.

Senators Roach and Chase spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5459, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5459, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 13; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Brown, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Kastama, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Parlette, Pflug, Prentice, Ranker, Regala, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Becker, Carrell, Chase, Conway, Honeyford, Kilmer, Morton, Pridemore, Roach, Rockefeller, Schoesler and Sheldon

Excused: Senators Benton, Hobbs, Nelson and Shin

SECOND SUBSTITUTE SENATE BILL NO. 5459, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Tom as to the application of Initiative Number 1053 to Engrossed Substitute Senate Bill 5942 as amended by the House, the President finds and rules as follows:

As Sen. Tom states, this bill privatizes the distribution of liquor within the state. In part, it requires that the state issue a Request for Proposal regarding such distribution. Section 2 of the bill requires that any person responding to that RFP must provide a variety of information, including a description of any "changes to retail profits generated as a result of the lease or contract." In essence, Sen. Tom's argument is that, to the extent that the contract changes the amounts paid by retail establishments, the contract will result in increased taxes paid by those establishments.

It is possible that Senator Tom is correct: the contract may alter the prices paid by retail establishments, and this could have a corresponding impact on prices paid by consumers. If retail prices are increased, then an argument can be made that taxes have increased through passage of this bill. This is not, however, the only possible outcome. It is possible that there will be no change; it is possible that changes at the wholesale level will not be passed on to consumers; it is even possible that efficiencies utilized by a private distributor could result in lower consumer prices. However, as the President has previously stated, on a challenge made to a prior bill involving the sale of liquor: "it is not possible, at this point in time, to determine with precision which scenario will ultimately come to pass." (Ruling re ESHB 1087; April 18, 2011.)

Each potential outcome depends on several factors: the nature and content of each response to the RFP, the market for the sale of liquor, and the actual contract, if any, entered into by the state. Each of these actions will occur outside of the legislature, and the provisions of I-1053 are triggered only by legislative action.

For these reasons, only a constitutional majority vote of twenty-five is necessary and Senator Tom's point is not well-taken."

The Senate resumed consideration of Engrossed Substitute Senate Bill No. 5942 which had been deferred earlier in the day.

Senators Sheldon and Tom spoke against passage of the bill.  
Senator Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5942, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5942, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 26; Nays, 19; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Brown, Carrell, Conway, Delvin, Eide, Fain, Harper, Hatfield, Hewitt, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Pflug, Ranker, Regala, Rockefeller, Schoesler, White and Zarelli

Voting nay: Senators Baxter, Becker, Chase, Ericksen, Fraser, Hargrove, Haugen, Hill, Holmquist Newbry, Kastama, Morton, Parlette, Prentice, Pridemore, Roach, Sheldon, Stevens, Swecker and Tom

Excused: Senators Benton, Hobbs, Nelson and Shin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5942, 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 TO LIMIT DEBATE

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through May 25, 2011."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through May 25, 2011 by voice vote.

## PERSONAL PRIVILEGE

Senator Eide: "Well, I just want to apologize to Senator Kohl-Welles for yesterday because I did state the rule wrong. So, Jeanne I am sorry."

## MOTION

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

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1346, by House Committee on Ways & Means (originally sponsored by Representative Hunter)

Making tax law changes that do not create any new or broaden any existing tax preferences as defined in RCW 43.136.021 or increase any person's tax burden.

The measure was read the second time.

## MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute House Bill No. 1346 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1346.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1346 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Absent: Senators Kline and Pridemore

Excused: Senators Benton, Hobbs, Nelson and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1346, 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

SENATE JOINT MEMORIAL NO. 8011, by Senators Swecker, Morton, Ranker, Haugen, Rockefeller, Pridemore and White

Regarding runoff from dams on the Snake and Columbia rivers and the impact on the state's fish resources.

The measure was read the second time.

## MOTION

On motion of Senator Swecker, the rules were suspended, Senate Joint Memorial No. 8011 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senators Swecker, Ranker, Parlette, Rockefeller and Morton spoke in favor of passage of the memorial.

## MOTION

On motion of Senator White, Senators Kline and Pridemore were excused.

The President declared the question before the Senate to be the final passage of Senate Joint Memorial No. 8011.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Memorial No. 8011 and the memorial passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Benton, Hobbs, Nelson and Shin

SENATE JOINT MEMORIAL NO. 8011, having received the constitutional majority, was declared passed.

## SECOND READING

SENATE BILL NO. 5091, by Senators Keiser and Shin

Delaying the implementation of the family leave insurance program.

## MOTION

On motion of Senator Keiser, Substitute Senate Bill No. 5091 was substituted for Senate Bill No. 5091 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Holmquist Newbry moved that the following striking amendment by Senators Holmquist Newbry and Keiser be adopted:

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 49.86.030 and 2009 c 544 s 1 are each amended to read as follows:

Beginning October 1, (~~2012~~)2015, family leave insurance benefits are payable to an individual during a period in which the individual is unable to perform his or her regular or customary work because he or she is on family leave if the individual:

(1) Files a claim for benefits in each week in which the individual is on family leave, and as required by rules adopted by the director;

(2) Has been employed for at least six hundred eighty hours in employment during the individual's qualifying year;

(3) Establishes an application year. An application year may not be established if the qualifying year includes hours worked before establishment of a previous application year;

(4) Consents to the disclosure of information or records deemed private and confidential under chapter 50.13 RCW. Initial disclosure of this information and these records by the employment security department to the department is solely for purposes related to the administration of this chapter. Further disclosure of this information or these records is subject to RCW 49.86.020(3);

(5) Discloses whether or not he or she owes child support obligations as defined in RCW 50.40.050; and

(6) Documents that he or she has provided the employer from whom family leave is to be taken with written notice of the individual's intention to take family leave in the same manner as an employee is required to provide notice in RCW 49.78.250.

**Sec. 2.** RCW 49.86.210 and 2009 c 544 s 2 are each amended to read as follows:

Beginning September 1, (~~2013~~) 2016, the department shall report to the legislature by September 1st of each year on projected and actual program participation, premium rates, fund balances, and outreach efforts."

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

Senator Holmquist Newbry 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 Holmquist Newbry and Keiser to Substitute Senate Bill No. 5091.

The motion by Senator Holmquist Newbry 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 "49.86.030", strike the remainder of the title and insert "and 49.86.210."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 5091 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5091.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5091 and the bill passed the

Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Pflug

Excused: Senators Benton, Hobbs, Nelson and Shin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5091, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Rockefeller: "Thank you Mr. President. Over the years I've learned that there are very few lasting secrets here in Olympia and sometimes rumors are true. Well this is one of those times. I'm deeply honored and humbled by the action of Governor Gregoire who yesterday appointed me to the Northwest Power and Conservation Council and I wish to thank the Governor for extending this opportunity to me which I'm pleased to accept. In that role I look forward to addressing a host of energy issues that are important to our state and its consumers and businesses. I also look forward to working on the issues of the fish and wildlife in the Columbian Snake River system and the interplay between energy and the stewardship of those resources. The very issue that Senator Swecker brought to our attention this afternoon symbolizes what those issues are like and how difficult they can be. There are no easy answers, we just manage those problems to the best of our ability. Extinction is not an option and I expect that addressing these issues will be just as challenging at the Council as they have been here in the Legislature. At the same time Mr. President, I've had to recognize that this appointment will bring to a close my service. So, it's with distinctly mixed emotions that I must advise you that I will be leaving the Senate. The work of the Senate is never done but my work here is concluding and I know that everyone that's served here understands that there must be an end point for our service whenever it begins but seldom do we hold that foremost in our minds. And yet now that that moments approaches for me I'm saddened indeed by that prospect and I know I will remember and miss this strong sense of family that connects the members of this body and offer support and caring to every one of us in times of stress or events of loss and challenge. I've seen it personally some three years ago when I fell from the roof of my home and out pouring of support and that meant a great deal to me and I wish to thank you again for that kindness and I know I will remember and miss the unity amidst the diversity here that shines forth in this body when we are faced with hardship or emergency conditions. In fact, years from now I think this Legislature and this Senate will go down in history as one of the best ever and the reason is the Senate exceeded everyone's expectation including our own by coming together, rising together as a body to the challenges that we faced building a balanced budget and passing the NTIBs and some important policy bills along the way. I think the senate can be enormously powerful when it works in that manner and I hope we can learn from this experience and carry on in that tradition. Mr. President, I personally will miss those occasional suspenseful rulings from the President that you deliver on parliamentary questions. I may be the only member of this body who has a personal copy of the annotated rulings of the Lieutenant Governor Brad Owen. In fact, when I asked Mike

THIRTIETH DAY, MAY 25, 2011

Hoover for something like this he said, 'It's never been printed before' So, it may not be a best seller, it may not be best seller Mr. President but and it does have its moments, well not passion but wisdom. So, I hope you will autograph my copy. It might someday be a hot item on Ebay. And to the members of the senate, my colleagues here and to the remarkable staff who have kept us functional and informed, may I say how much, how much I have treasured working here and being part of the process. It is a joy working with you. I love the give and take. I like the diversity of views and experience and the views and proposals that are articulated here by just about everyone. I've loved listening to the floor debates and the sometimes heartfelt eloquent and occasionally humorous speeches. Most of the time I love committee hearings and executive sessions even though Ways & Means can go on and on and on. I've appreciated as well the candid caucus discussions and the bill reviews that we've had in our caucus. And I guess you could say I love this institution and what it stands for and the people that keep in humming and alive and functional. We are blessed to participate in the life of this wonderful body. I love the dignity of these marbled chambers. I love the morning flag ceremony. I love the way the American flag is fluffed a little bit after it's been posted. It's a sign of respect and love of the United States. And like so many of you I take inspiration from the opening prayers, reflections, especially from fellow legislators. Our Washington State experiment and self-government in a representative democracy with citizen legislators like ourselves is an amazing blend of personal values, life experience, advocacy and compromise all in the ongoing search for the public good. It's not perfect but it does work and I cherish the process and all of you and I respect the outcomes. Well, now it's time for me to conclude Mr. President. I will hold all of you in my heart and I wish you all farewell. Thank you."

## PERSONAL PRIVILEGE

Senator Delvin: "Well, thank you Mr. President. I want to tell the good Senator, Phil Rockefeller that I'll certainly miss him. The time on our committee, I don't know how many times you changed that name of that committee just to keep me confused but I appreciate that. I will miss that 'You're out of order, Senator Delvin,' I'll certainly miss our time on climate change. I think in another year I would have had you convinced it was all a fraud to begin with. I needed just one more year for that. I think I would have had you. But seriously Phil, certainly going to miss you and the discussions we had on that committee and I appreciate your service to your districts constituents but also to the people of the state of Washington and I hope we'll keep in contact now and then in your new position. Thank you."

## PERSONAL PRIVILEGE

Senator Roach: "Thank you Mr. President. I just want to thank Phil. You know ladies and gentlemen of the senate, this is a real gentleman. This is a person that treats a person fairly and honestly. I can't think of anyone that the Governor could of picked a more aptly to begin service on this new assignment that you have and I wish you well. I wish that we could attain the kind of level of respect that you have for every individual and the way you treat people is beyond. I've been treated pretty badly in some places so I really do respect and admire someone that treats an individual fairly and with respect. Thank you Senator for your good service. We will miss you."

## PERSONAL PRIVILEGE

2011 1ST SPECIAL SESSION

Senator Kilmer: "Thank you Mr. President. Well, I wanted to rise and also express my gratitude to Senator Rockefeller. You know I'm grateful for three things: first, I'm grateful as a father for the difference he has made in the lives of my kids and all kids in our state; for his championship when it comes to environmental issues. We know that our kids are only as safe as the water they drink and the air they breathe and the earth that we will pass on to them and he has made a difference in their lives and also for his championship on education issues. He's someone who understands that as Benjamin Franklin wrote two and half centuries ago, 'An investment in knowledge pays the greatest interest' and he has fought to make sure that their future was brighter. I'm grateful to him, secondly, as a fellow legislator from Kitsap County who understands how passionately and thoughtfully he has fought for his constituents over the years when it comes to ferry issues and other local issues. He is a fighter for his constituents and that is something I think that all of us are grateful for and all of us will miss. And, finally, I am grateful to him simply as a friend, you know Senator Roach used the word gentleman and as I was thinking about what to say that was the first word that I thought of. Senator Rockefeller is a true gentleman. He has good humor, he mentioned his fall from his roof a few years back and even I think even with a broken pelvis I think he's a better dancer than I am. Feels a little weird to talk about his pelvis on the floor of the senate but he really is quite a fine dancer. I think all of us will miss the collegiality and good humor that he brings to this body and I want to thank you for your service to our community and I'm sure we'll be in touch."

## PERSONAL PRIVILEGE

Senator Hargrove: "Thank you Mr. President. A couple of things that I think of first most, or first most, first he's eloquent unlike me but the thing I think of most often is how thoughtful and analytically he is as he goes through every issue because I know that I've come to him with issues that probably his perspective would have generically said, 'Nah, I'm not with you on that' but as he thoughtfully goes through every issue and looks at it and I think the trial lawyers regret that as a matter of fact. A couple years ago, as we started to get in deep into some of these liability issues and he had a very thoughtful look at it and came up with some solutions that were very creative. Another thing I remember is few years ago when we were doing the mental health legislation and he got up and gave a speech and basically said, 'You know, the ships leaving and we need to follow Captain Hargrove on this one.' I will always forever remember that. Your trust with people that have worked on things and again having looked through every little piece of it and saw that it actually made sense. I think that if we did a training video on what a Senator should be like we could just take a video of Senator Rockefeller and because of his thoughtfulness, analytical nature, willingness to think maybe outside the box, to be courteous, to keep his word. I think those are all the things that are exactly what he's like and actually what we all ought to be like but I think we could look to him and see that. And another thing I'd like to say, we do need to confirm you so I hope your counting votes in your last few hours here but I don't think there will be any problems, in fact, I'll be glad to speak on that behalf when it comes up. Thanks for serving the state of Washington and thanks for being my colleague here in the Senate. Thank you."

## PERSONAL PRIVILEGE

Senator Eide: "Thank you Mr. President. Well, Senator Rockefeller has been my right wing man and he has had my back

and I have absolutely loved his personality, his trustworthiness and his legal mind and I don't know what I'm going to do without you. Promise me you will never get up on a ladder again to clean your gutters. I tell you my heart went up to my throat. My husband in fact, I think we bought you a shirt and I can't remember about gravity or something about gravity, yes. We both thought, 'What in the world is he doing up there cleaning his gutters.' The next time you need somebody to do, call me, I'll hire someone for you. It's the fine people that we work and serve with down here that makes it fun. When times are tough and you wonder how you're going to make it through the day and you know you turn around and you look at a fine gentle man that I know I can trust to have my back. Man, you can cut a rug. I am going to miss those dances because my husband doesn't dance. So, I'm going to have to call you every once in a while to come be my partner. The very best to you, God Bless you."

#### PERSONAL PRIVILEGE

Senator Nelson: "When I was elected to the Senate Senator Rockefeller reached out to me and we already started discussing environmental issues and I truly have been honored and privileged to serve as his Vice Chair on his Environment, Water and Energy. I'd say in working with him, I have two words for him, he's a statesman and he is a gentleman. He has given me more time to serve a chair while he worked over different issues than any chair I've ever seen work with Vice Chair. I will truly miss you Phil. It has been a wonderful, wonderful time for me but I'm very pleased you're getting the appointment that you are because you deserve it. We will miss you but congratulations."

#### PERSONAL PRIVILEGE

Senator Sheldon: "Well thank you Mr. President. Senator Rockefeller, we all are going to miss you a lot here and we both represent parts of Kitsap County. It's been a pleasure dealing with you and working with our constituents. You've always been up front, honest, well-spoken, a real example. I think also the Governor's made an excellent appointment to the Pacific Northwest Power and Conservation Council. There's only I think eight people on that board? If people don't know, two from each state, one from the east side of Washington, one from the west side of Washington. You are the perfect person for that role. You're an inquisitive mind, your abilities and I think the people of the state of Washington will be served very, very well. One thing else that I want to mention: If you've had, any member, if you've ever had the opportunity to sit down with Senator Rockefeller and his lovely wife and have dinner, have a conversation. You can tell what a special bond they have. How close they are. How well they work together. It's very exceptional. I must compliment you on what seems to me to be a very, very good marriage. Thank you."

#### PERSONAL PRIVILEGE

Senator Fraser: "Well, thank you Mr. President. Well, I too would like to rise to congratulate Senator Rockefeller and also to thank the Governor for her wisdom in selecting such a highly capable person to be in this very, very significant role where you'll be playing a role in the big picture future of the Pacific Northwest. You are so qualified for this and some people talk about 'serving on the committee.' You know when you've been chair of a committee, when I chaired this committee for a number of years, you know issues never leave you. And I stayed on the committee so I have watched Senator Rockefeller, worked with him closely on a committee, and I must say he is truly a person of

vision, who looks down the road in the future on a comprehensive basis. He always makes sure he is well educated on an issue. He's polite to everybody and that is sometimes a challenge around here. He is a person of courage and a person of high ethical standards and a person of determination that goes along with his vision. And so we have a lot of legislation here in the state of Washington that we wouldn't have if it had not been for the leadership of Senator Rockefeller. So, I think this is a perfect appointment. I am excited for you and am very pleased for the Pacific Northwest and the nice thing is we'll all still be interacting with you to one degree or the other and it will be fun when you come before your old committee for an appointment confirmation."

#### PERSONAL PRIVILEGE

Senator Ericksen: "Thank you Mr. President. As a fellow member of the class of 1999 from the House of Representatives, I'd like to say congratulations on your new appointment and people have spoken tonight to your statesmanship, your dancing ability but you also have to remember that back in the day he had a mean hook shot on the basketball court also when we'd go out and play. What was interesting about it was he was old school there. I'm not sure if it was the Chuck Taylor's or not but it was the classic old school hook shot and I think what it really speaks to, in a way, is your old school attitude here in the Legislature, the dignity and decorum and the way that you carry yourself here in the body. It will be missed by all of us here so. I know we haven't shot too many hook shots lately on the basketball court but it definitely carries over in how you conduct yourself here and the way you've done it all these years since 1999. Thank you for your service and congratulations."

#### PERSONAL PRIVILEGE

Senator Swecker: "Thank you Mr. President. Senator Rockefeller, I certainly hate to see you go but I've had some great experiences with you and I think one of those was hearkening back to our service on the Permitting, Efficiency and Accountability committee where we worked to streamline permits, I have to admit that wasn't anything quite so much fun as being on, a group with really smart people in a room trying to solve problems and you certainly were one of those. In fact, I have to remember that I was so impressed by that process that I enrolled in the master's program at Evergreen in environmental studies. Before that nobody could of accused me of being an environmentalists so, I really enjoyed our experience together. One of the things that I enjoyed too was OUR trip back to Washington D. C. where you took me to visit your friend at NPR radio and I got a tour there of that area. So, it's been a great experience and I also want to thank you for your leadership this year in dealing with the coal fire plant in the Lewis County area. It could have been much different without your leadership and I thank you for that. So, Godspeed and Lord be with you."

#### PERSONAL PRIVILEGE

Senator Pflug: "Thank you Mr. President. Well, I too will be left with some very good memories of working with this gentleman. Particularly I remember being new in the Senate and trying to negotiate some education bills and what a terrific help you were and what a stabilizing presence in some very difficult negotiations. I remember the dedication continuing into the interim and one particular meeting while we were both trying to represent our districts and everyone was driving through a few inches of snow, do you remember that meeting? We did come to



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

some good conclusions and over a period of several years, I've really appreciated being able to work. I think my first experience of really good by-partisan and senate verses the house kind of outcome. So as I was listening to everyone come up with the same adjectives over and over I was thinking I agree and actually if they were to make a movie of your life I'm sure it would be an honorable and a gentleman. So, good luck, you certainly deserve to have a great retirement from this place. Everyone should eventually do that but we will miss you terribly. Thank you."

PERSONAL PRIVILEGE

Senator McAuliffe: "Thank you Mr. President. I would just like to say Senator, you asked to be on the education committee this year. You passionately wanted to serve. You served with thoughtfulness, with care and concern for every one of the one million children in our K-12 education system. They have benefited. Their lives are different because you cared, you took steps both in the house and the senate to make a difference in their lives. This is one of our toughest times in all my years of service and that is eighteen because we have had to make some drastic cuts that hurt our schools, our health care, our families and our children but you have done that with courage and I cannot say all this without recognizing this that in the wings behind every good man is a good woman, a better woman, and could we ask you to step out and also be recognized. Thank you. Thank you Mr. President."

PERSONAL PRIVILEGE

Senator Kohl-Welles: "Thank you Mr. President. Although the last tribute is probably an appropriate ending I can't resist speaking as well. I have been fortunate to be the next door neighbor of Senator Rockefeller in terms of our office locations and we've had a litany of wonderful describers of this gentleman's personal attributes, his talents just absolutely stellar but I think it's also important to know that he's a very good listener. When I've had to vent he's been there willing to listen to me which is sometimes very important around here. But it's also something that I cherish in him that he takes risks. He comes out for controversial positions on things that some people just won't do and may not always be easy in his district and I really appreciated that. And lastly, it's also important that we're not ending with what he brought forward in his personal and very compelling and moving statement to all of us tonight but he's having a party and sometime tonight outside of our offices and conference room 211, Senator Rockefeller and his wife, Anita, have spearheaded a party. And I hope that you all come by because that's part of the real Senator Rockefeller too."

PERSONAL PRIVILEGE

Senator Ranker: "Phil, I began working with you before I was in the Senate on the creation of the Puget Sound Partnership and it was at that point I saw the statesmanship in you, the leadership qualities in you and really enjoyed that time. Since being here in the Senate getting to work with you on the environment committee on environmental issues but also on educational issues and just leadership issues for our state has been a wonderful opportunity for me and so with that I will miss you deeply in this body and I think your contribution to this state has been magnificent. Thank you."

REMARKS BY THE PRESIDENT

President Owen: "Senator Rockefeller you have served with great dignity and professionalism. It has been a real honor for me also to serve with you. I wish you the best in your new endeavor. I would like to give you some advice, if in fact you are having trouble sleeping, pull out my rulings, they'll put you right to sleep."

MOTION

At 6:08 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 7:37 p.m. by President Owen.

SIGNED BY THE PRESIDENT

The President signed:  
SECOND SUBSTITUTE SENATE BILL 5459,  
ENGROSSED SUBSTITUTE SENATE BILL 5942.

MOTION

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

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:  
The House has passed:  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5860,  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:  
The Speaker has signed:  
SUBSTITUTE SENATE BILL 5181,  
SECOND ENGROSSED SUBSTITUTE SENATE BILL 5742,  
ENGROSSED SUBSTITUTE SENATE BILL 5749,  
SECOND ENGROSSED SENATE BILL 5764,  
ENGROSSED SUBSTITUTE SENATE BILL 5891.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:  
The Speaker has signed:  
HOUSE BILL 1131,  
SECOND SUBSTITUTE HOUSE BILL 1132,  
ENGROSSED SUBSTITUTE HOUSE BILL 1548,  
ENGROSSED SUBSTITUTE HOUSE BILL 1981,  
ENGROSSED HOUSE BILL 2003,  
SUBSTITUTE HOUSE BILL 2119.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 25, 2011

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 2082,

ENGROSSED SUBSTITUTE HOUSE BILL 2088.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5931 with the following amendment(s): 5931-S.E AMH HUDG H2911.2

Strike everything after the enacting clause and insert the following:

**"PART I**

**DEPARTMENT OF ENTERPRISE SERVICES CREATED**

NEW SECTION. Sec. 101. To maximize the benefits to the public, state government should be operated in an efficient and effective manner. The department of enterprise services is created to provide centralized leadership in efficiently and cost-effectively managing resources necessary to support the delivery of state government services. The mission of the department is to implement a world-class, customer-focused organization that provides valued products and services to government and state residents.

NEW SECTION. Sec. 102. A new section is added to chapter 43.19 RCW to read as follows:

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

(1) "Department" means the department of enterprise services.

(2) "Director" means the director of enterprise services.

NEW SECTION. Sec. 103. A new section is added to chapter 43.19 RCW to read as follows:

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

(2) In addition to the powers and duties as provided in this act, the department shall:

(a) Provide products and services to support state agencies, and may enter into agreements with any other governmental entity or a public benefit nonprofit organization, in compliance with RCW 39.34.055, to furnish such products and services as deemed appropriate by both parties. The agreement shall provide for the reimbursement to the department of the reasonable cost of the products and services furnished. All governmental entities of this state may enter into such agreements, unless otherwise prohibited; and

(b) Make available to state, local, and federal agencies, local governments, and public benefit nonprofit corporations on a full cost-recovery basis information and printing services to include equipment acquisition assistance, including leasing, brokering, and

establishing master contracts. For the purposes of this section "public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03.005 that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or political subdivision of another state.

NEW SECTION. Sec. 104. A new section is added to chapter 43.19 RCW to read as follows:

(1) The executive powers and management of the department shall be administered as described in this section.

(2) The executive head and appointing authority of the department is the director. The director is appointed by the governor, subject to confirmation by the senate. The director serves at the pleasure of the governor. The director is paid a salary fixed by the governor in accordance with RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he or she shall present to that body his or her nomination for the position.

(3) The director may employ staff members, who are exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter, and such other duties as may be authorized by law. The director may delegate any power or duty vested in him or her by this act or other law, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW.

(4) The internal affairs of the department are under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director has complete charge and supervisory powers over the department. The director may create the administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law.

(5) Until June 30, 2018, at the beginning of each fiscal biennium, the office of financial management shall conduct a review of the programs and services that are performed by the department to determine whether the program or service may be performed by the private sector in a more cost-efficient and effective manner than being performed by the department. In conducting this review, the office of financial management shall:

(a) Examine the existing activities currently being performed by the department, including but not limited to an examination of services for their performance, staffing, capital requirements, and mission. Programs may be broken down into discrete services or activities or reviewed as a whole; and

(b) Examine the activities to determine which specific services are available in the marketplace and what potential for efficiency gains or savings exist.

(i) As part of the review in this subsection (5), the office of financial management shall select up to six activities or services that have been determined as an activity that may be provided by the private sector in a cost-effective and efficient manner, including for the 2011-2013 fiscal biennium the bulk printing services. The office of financial management may consult with affected industry stakeholders in making its decision on which activities to contract for services. Priority for selection shall be given to agency activities or services that are significant, ongoing functions.

(ii) The office of financial management must consider the consequences and potential mitigation of improper or failed performance by the contractor.

(iii) For each of the selected activities, the department shall use a request for information, request for proposal, or other procurement

THIRTIETH DAY, MAY 25, 2011

process to determine if a contract for the activity would result in the activity being provided at a reduced cost and with greater efficiency.

(iv) The request for information, request for proposal, or other procurement process must contain measurable standards for the performance of the contract.

(v) The department may contract with one or more vendors to provide the service as a result of the procurement process.

(vi) If the office of financial management determines via the procurement process that the activity cannot be provided by the private sector at a reduced cost and greater efficiency, the department of enterprise services may cancel the procurement without entering into a contract and shall promptly notify the legislative fiscal committees of such a decision.

(vii) The department of enterprise services, in consultation with the office of financial management, must establish a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards. No contracts may be renewed without a review of these measures.

(viii) The office of financial management shall prepare a biennial report summarizing the results of the examination of the agency's programs and services. In addition to the programs and services examined and the result of the examination, the report shall provide information on any procurement process that does not result in a contract for the services. During each regular legislative session held in odd-numbered years, the legislative fiscal committees shall hold a public hearing on the report and the department's activities under this section.

(ix) The joint legislative audit and review committee shall conduct an audit of the implementation of this subsection (5), and report to the legislature by January 1, 2018, on the results of the audit. The report must include an estimate of additional costs or savings to taxpayers as a result of the contracting out provisions.

**NEW SECTION. Sec. 105.** (1) The department of enterprise services has powers and duties related to state contracting as provided in chapters 43.19 and 39.29 RCW. The process and procedures in each chapter differ from each other in many respects. In addition, the process and procedures may not represent the best practices for the agency or the public.

(2) In order to effect reform and consolidation of procurement practices, the department shall review current state procurement practices, not including public works, and provide a report to the governor with procurement reform recommendations. The department should review national best practices and the procedures used in other states and by the federal government. The department may also review private sector procedures and model codes such as the American bar association model procurement code. The department shall seek input from stakeholders and interested parties. The department shall submit a report to the governor and the office of financial management by December 31, 2011. The report shall include any draft legislation needed to accomplish the report's recommendations.

**NEW SECTION. Sec. 106.** A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions under RCW 41.06.070, this chapter does not apply in the department of enterprise services to the director, the director's confidential secretary, deputy and assistant directors, and any other exempt staff members provided for in section 104 of this act.

**Sec. 107.** RCW 43.17.010 and 2009 c 565 s 25 are each amended to read as follows:

There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and

2011 1ST SPECIAL SESSION

wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of ~~((general administration))~~ enterprise services, (9) the department of commerce, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, (14) the department of health, (15) the department of financial institutions, (16) the department of archaeology and historic preservation, (17) the department of early learning, and (18) the Puget Sound partnership, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide.

**Sec. 108.** RCW 43.17.020 and 2009 c 565 s 26 are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of ~~((general administration))~~ enterprise services, (9) the director of commerce, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, (15) the director of financial institutions, (16) the director of the department of archaeology and historic preservation, (17) the director of early learning, and (18) the executive director of the Puget Sound partnership.

Such officers, except the director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055.

**Sec. 109.** RCW 42.17A.705 and 2010 c 204 s 902 are each amended to read as follows:

For the purposes of RCW 42.17A.700, "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the director of the department of services for the blind, the chief information officer of the office of chief information officer, the director of the state system of community and technical colleges, the director of commerce, the director of the consolidated technology services agency, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the director of enterprise services, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, ~~((the director of general administration,))~~ the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the human resources director, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, ~~((the director of the department of information services,))~~ the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, ~~((the director of personnel,))~~ the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington

state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, Eastern Washington University board of trustees, Washington economic development finance authority, Washington energy northwest executive board, The Evergreen State College board of trustees, executive ethics board, fish and wildlife commission, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities authority, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, ~~((information services board,))~~ state investment board, commission on judicial conduct, legislative ethics board, life sciences discovery fund authority board of trustees, liquor control board, lottery commission, Pacific Northwest electric power and conservation planning council, parks and recreation commission, Washington personnel resources board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public employees' benefits board, recreation and conservation funding board, salmon recovery funding board, shorelines hearings board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington State University board of regents, and Western Washington University board of trustees.

**Sec. 110.** RCW 42.17.2401 and 2009 c 565 s 24 are each amended to read as follows:

For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the administrator of the Washington basic health plan, the director of the department of services for the blind, the chief information officer of the office of chief information officer, the director of the state system of community and technical colleges, the director of commerce, the director of the consolidated technology services agency, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of ~~((general administration))~~ enterprise services, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the human resources director, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, ~~((the director of the department of information services,))~~ the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, ~~((the director of personnel,))~~ the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the

recreation and conservation office, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, committee for deferred compensation, Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, life sciences discovery fund authority board of trustees, Washington health care facilities authority, each member of the Washington health services commission, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, ~~((information services board,))~~ recreation and conservation funding board, state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, marine oversight board, Pacific Northwest electric power and conservation planning council, parks and recreation commission, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public pension commission, shorelines hearings board, public employees' benefits board, salmon recovery funding board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington state maritime commission, Washington personnel resources board, Washington public power supply system executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission.

**NEW SECTION. Sec. 111.** Section 109 of this act takes effect January 1, 2012.

**NEW SECTION. Sec. 112.** Section 110 of this act expires January 1, 2012.

## PART II POWERS AND DUTIES TRANSFERRED FROM THE DEPARTMENT OF GENERAL ADMINISTRATION

**Sec. 201.** RCW 43.19.011 and 1999 c 229 s 2 are each amended to read as follows:

(1) The director of ~~((general administration))~~ enterprise services shall supervise and administer the activities of the department of ~~((general administration))~~ enterprise services and shall advise the governor and the legislature with respect to matters under the jurisdiction of the department.

(2) In addition to other powers and duties granted to the director, the director shall have the following powers and duties:

(a) Enter into contracts on behalf of the state to carry out the purposes of this chapter;

(b) Accept and expend gifts and grants that are related to the purposes of this chapter, whether such grants be of federal or other funds;

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(c) Appoint ~~((a))~~ deputy ~~((director))~~ and ~~((such))~~ assistant directors and such other special assistants as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW;

(d) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(e) Delegate powers, duties, and functions as the director deems necessary for efficient administration, but the director shall be responsible for the official acts of the officers and employees of the department; ~~((and))~~

(f) Apply for grants from public and private entities, and receive and administer any grant funding received for the purpose and intent of this chapter; and

(g) Perform other duties as are necessary and consistent with law.

(3) The director may establish additional advisory groups as may be necessary to carry out the purposes of this chapter.

~~((4))~~ The internal affairs of the department shall be under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director shall have complete charge and supervisory powers over the department. The director may create such administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ such personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law.)

**Sec. 202.** RCW 43.19.025 and 2002 c 332 s 3 are each amended to read as follows:

The ~~((general administration))~~ enterprise services account is created in the custody of the state treasurer and shall be used for all activities previously budgeted and accounted for in the following internal service funds: The motor transport account, the ~~((general administration))~~ enterprise services management fund, the ~~((general administration))~~ enterprise services facilities and services revolving fund, the central stores revolving fund, the surplus property purchase revolving fund, and the energy efficiency services account. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW.

**Sec. 203.** RCW 43.19.035 and 2005 c 16 s 1 are each amended to read as follows:

(1) The commemorative works account is created in the custody of the state treasurer and shall be used by the department of ~~((general administration))~~ enterprise services for the ongoing care, maintenance, and repair of commemorative works on the state capitol grounds. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not necessary for expenditures.

(2) For purposes of this section, "state capitol grounds" means buildings and land owned by the state and otherwise designated as state capitol grounds, including the west capitol campus, the east capitol campus, the north capitol campus, the Tumwater campus, the Lacey campus, Sylvester Park, Centennial Park, the Old Capitol Building, and Capitol Lake.

**Sec. 204.** RCW 43.19.125 and 2007 c 520 s 6014 are each amended to read as follows:

(1) The director of ~~((general administration, through the division of capitol buildings,))~~ enterprise services shall have custody and control of the capitol buildings and grounds, supervise and direct proper care, heating, lighting and repairing thereof, and designate rooms in the capitol buildings to be occupied by various state officials.

(2) During the 2007-2009 biennium, responsibility for development of the "Wheeler block" on the capitol campus as authorized in section 6013, chapter 520, Laws of 2007 shall be transferred from the department of general administration to the department of information services. ~~((The department of general administration and the department of information services shall develop a joint operating agreement for the new facilities on the "Wheeler block" and provide copies of that agreement to the appropriate committees of the legislature by December 30, 2008.~~

~~—(3) During the 2007-2009 biennium, responsibility for development of the Pritchard building rehabilitation on the capitol campus as authorized in section 1090, chapter 520, Laws of 2007 shall be transferred from the department of general administration to the statute law committee.)~~

**Sec. 205.** RCW 43.19.180 and 2009 c 549 s 5063 are each amended to read as follows:

The director of ~~((general administration))~~ shall appoint and deputize an assistant director to be known as the state purchasing and material control director, who shall have charge and supervision of the division of purchasing. In this capacity he or she) enterprise services shall ensure that overall state purchasing and material control policy is implemented by state agencies, including educational institutions, within established time limits.

~~((With the approval of the director of general administration, he or she may appoint and employ such assistants and personnel as may be necessary to carry on the work of the division.))~~

**Sec. 206.** RCW 43.19.185 and 1987 c 47 s 1 are each amended to read as follows:

(1) The director ~~((of general administration through the state purchasing and material control director))~~ shall develop a system for state agencies and departments to use credit cards or similar devices to make purchases. The director may contract to administer the credit cards.

(2) The director ~~((of general administration through the state purchasing and material control director))~~ shall adopt rules for:

- (a) The distribution of the credit cards;
- (b) The authorization and control of the use of the credit cards;
- (c) The credit limits available on the credit cards;
- (d) Instructing users of gasoline credit cards to use self-service islands whenever possible;
- (e) Payments of the bills; and
- (f) Any other rule necessary to implement or administer the program under this section.

**Sec. 207.** RCW 43.19.190 and 2002 c 200 s 3 are each amended to read as follows:

The director ~~((of general administration, through the state purchasing and material control director,))~~ shall:

(1) ~~((Establish and staff such administrative organizational units within the division of purchasing as may be necessary for effective administration of the provisions of RCW 43.19.190 through 43.19.1939))~~ Develop rules and standards governing the acquisition and disposition of goods and services;

(2) ~~((Purchase all material, supplies, services, and equipment needed for the support, maintenance, and use of all state institutions, colleges, community colleges, technical colleges, college districts, and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state))~~ Enter into contracts on behalf of the state to carry out the following: To purchase, lease, rent or otherwise acquire, dispose of, and maintain assets, licenses, purchased goods and services, client services, and personal services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent or otherwise acquire, dispose of, and maintain assets, licenses,

purchased goods and services, client services, and personal services. Agencies and institutions of state government are expressly prohibited from acquiring or disposing of such assets, licenses, purchased services, and personal services without such delegation of authority: PROVIDED, That the provisions of RCW 43.19.190 through 43.19.1937 do not apply in any manner to the operation of the state legislature except as requested by the legislature: PROVIDED, That any agency may purchase material, supplies, services, and equipment for which the agency has notified the purchasing and material control director that it is more cost-effective for the agency to make the purchase directly from the vendor: PROVIDED, That primary authority for the purchase of specialized equipment, instructional, and research material for their own use shall rest with the colleges, community colleges, and universities: PROVIDED FURTHER, That universities operating hospitals and the ((state purchasing and material control)) director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations: PROVIDED FURTHER, That primary authority for the purchase of materials, supplies, and equipment for resale to other than public agencies shall rest with the state agency concerned: PROVIDED FURTHER, That authority to purchase services as included herein does not apply to personal services as defined in chapter 39.29 RCW, unless such organization specifically requests assistance from the ((division of purchasing)) department of enterprise services in obtaining personal services and resources are available within the ((division)) department to provide such assistance: ((PROVIDED FURTHER, That the authority for the purchase of insurance and bonds shall rest with the risk manager under RCW 43.19.1935:)) PROVIDED FURTHER, That, except for the authority of the risk manager to purchase insurance and bonds, the director is not required to provide purchasing services for institutions of higher education that choose to exercise independent purchasing authority under RCW 28B.10.029: PROVIDED FURTHER, That the authority to purchase interpreter services and interpreter brokerage services on behalf of limited-English speaking or sensory-impaired applicants and recipients of public assistance shall rest with the department of social and health services in consultation with the department;

(3) Have authority to delegate to state agencies authorization to purchase or sell, which authorization shall specify restrictions as to dollar amount or to specific types of material, equipment, services, and supplies. Acceptance of the purchasing authorization by a state agency does not relieve such agency from conformance with other sections of RCW 43.19.190 through 43.19.1939, or from policies established by the director. Also, delegation of such authorization to a state agency, including an educational institution to which this section applies, to purchase or sell material, equipment, services, and supplies shall not be granted, or otherwise continued under a previous authorization, if such agency is not in substantial compliance with overall state purchasing and material control policies as established herein;

(4) Contract for the testing of material, supplies, and equipment with public and private agencies as necessary and advisable to protect the interests of the state;

(5) ((Prescribe the manner of inspecting all deliveries of supplies, materials, and equipment purchased through the division)) Develop statewide or interagency procurement policies, standards, and procedures;

(6) ((Prescribe the manner in which supplies, materials, and equipment purchased through the division shall be delivered, stored, and distributed)) Provide direction concerning strategic planning

goals and objectives related to state purchasing and contracts activities. The director shall seek input from the legislature and the judiciary;

(7) ((Provide for the maintenance of a catalogue library, manufacturers' and wholesalers' lists, and current market information)) Develop and implement a process for the resolution of appeals by:

(a) Vendors concerning the conduct of an acquisition process by an agency or the department; or

(b) A customer agency concerning the provision of services by the department or by other state providers;

(8) Establish policies for the periodic review by the department of agency performance which may include but are not limited to analysis of:

(a) Planning, management, purchasing control, and use of purchased services and personal services;

(b) Training and education; and

(c) Project management;

((8)) (9) Provide for a commodity classification system and may, in addition, provide for the adoption of standard specifications;

((9) Provide for the maintenance of inventory records of supplies, materials, and other property;))

(10) Prepare rules and regulations governing the relationship and procedures between the ((division of purchasing)) department and state agencies and vendors;

(11) Publish procedures and guidelines for compliance by all state agencies, including those educational institutions to which this section applies, which implement overall state purchasing and material control policies;

(12) Advise state agencies, including educational institutions, regarding compliance with established purchasing and material control policies under existing statutes.

**Sec. 208.** RCW 43.19.1905 and 2009 c 486 s 10 are each amended to read as follows:

(1) The director of ((general administration)) enterprise services shall establish overall state policy for compliance by all state agencies, including educational institutions, regarding the following purchasing and material control functions:

(a) Development of a state commodity coding system((, including common stock numbers for items maintained in stores for reissue;

(b) Determination where consolidations, closures, or additions of stores operated by state agencies and educational institutions should be initiated;

(c) Institution of standard criteria for determination of when and where an item in the state supply system should be stocked;

(d) Establishment of stock levels to be maintained in state stores, and formulation of standards for replenishment of stock;

(e) Formulation of an overall distribution and redistribution system for stock items which establishes sources of supply support for all agencies, including interagency supply support;

(f) Determination of what function data processing equipment, including remote terminals, shall perform in statewide purchasing and material control for improvement of service and promotion of economy;

(g) Standardization of records and forms used statewide for supply system activities involving purchasing, receiving, inspecting, storing, requisitioning, and issuing functions, including a));

(b) A standard notification form for state agencies to report cost-effective direct purchases, which shall at least identify the price of the goods as available through the ((division of purchasing)) department, the price of the goods as available from the alternative source, the total savings, and the signature of the notifying agency's director or the director's designee;

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

((#)) (c) Screening of supplies, material, and equipment excess to the requirements of one agency for overall state need before sale as surplus;

((i)) Establishment of warehouse operation and storage standards to achieve uniform, effective, and economical stores operations;

(j) Establishment of time limit standards for the issuing of material in store and for processing requisitions requiring purchase;

(k) Formulation of criteria for)

(d) Determining when centralized rather than decentralized purchasing shall be used to obtain maximum benefit of volume buying of identical or similar items, including procurement from federal supply sources;

((#)) (e) Development of criteria for use of leased, rather than state owned, warehouse space based on relative cost and accessibility;

((m)) Institution of standard criteria for purchase and placement of state furnished materials, carpeting, furniture, fixtures, and nonfixed equipment, in newly constructed or renovated state buildings;

(n)) (f) Determination of how transportation costs incurred by the state for materials, supplies, services, and equipment can be reduced by improved freight and traffic coordination and control;

((#)) (g) Establishment of a formal certification program for state employees who are authorized to perform purchasing functions as agents for the state under the provisions of chapter 43.19 RCW;

((#)) (h) Development of performance measures for the reduction of total overall expense for material, supplies, equipment, and services used each biennium by the state;

((#)) (i) Establishment of a standard system for all state organizations to record and report dollar savings and cost avoidance which are attributable to the establishment and implementation of improved purchasing and material control procedures;

((#)) (j) Development of procedures for mutual and voluntary cooperation between state agencies, including educational institutions, and political subdivisions for exchange of purchasing and material control services;

((#)) (k) Resolution of all other purchasing and material matters which require the establishment of overall statewide policy for effective and economical supply management;

((#)) (l) Development of guidelines and criteria for the purchase of vehicles, high gas mileage vehicles, alternate vehicle fuels and systems, equipment, and materials that reduce overall energy-related costs and energy use by the state, including investigations into all opportunities to aggregate the purchasing of clean technologies by state and local governments, and including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002);

((#)) (m) Development of goals for state use of recycled or environmentally preferable products through specifications for products and services, processes for requests for proposals and requests for qualifications, contractor selection, and contract negotiations;

((#)) (n) Development of procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of products and services by state agencies and institutions from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments;

((#)) (o) Development of food procurement procedures and materials that encourage and facilitate the purchase of Washington grown food by state agencies and institutions to the maximum

extent practicable and consistent with international trade agreement commitments; and

((#)) (p) Development of policies requiring all food contracts to include a plan to maximize to the extent practicable and consistent with international trade agreement commitments the availability of Washington grown food purchased through the contract.

(2) ((The department of general administration shall convene a working group including representatives of the office of financial management, the department of information services, and the state printer. The purpose of the working group is to work collaboratively to develop common policies and procedures that encourage and facilitate state government purchases from Washington small businesses, as required in subsection (1)(v) of this section, and in RCW 39.29.065, 43.78.110, and 43.105.041(1)(j). By December 1, 2009, these central services agencies shall jointly provide a written progress report to the governor and legislature on actions taken and planned, barriers identified, and solutions recommended to reach this goal.

(3)) The definitions in this subsection apply throughout this section and RCW 43.19.1908.

(a) "Common vendor registration and bid notification system" has the definition in RCW 39.29.006.

(b) "Small business" has the definition in RCW 39.29.006.

(c) "Washington grown" has the definition in RCW 15.64.060.

**Sec. 209.** RCW 43.19.19052 and 1998 c 245 s 54 are each amended to read as follows:

Initial policy determinations for the functions described in RCW 43.19.1905 shall be developed and published within the 1975-77 biennium by the director for guidance and compliance by all state agencies, including educational institutions, involved in purchasing and material control. Modifications to these initial supply management policies established during the 1975-77 biennium shall be instituted by the director in future biennia as required to maintain an efficient and up-to-date state supply management system.

It is the intention of the legislature that measurable improvements in the effectiveness and economy of supply management in state government shall be achieved during the 1975-77 biennium, and each biennium thereafter. All agencies, departments, offices, divisions, boards, and commissions and educational, correctional, and other types of institutions are required to cooperate with and support the development and implementation of improved efficiency and economy in purchasing and material control. To effectuate this legislative intention, the director(~~;~~ ~~through the state purchasing and material control director, shall have~~) has the authority to direct and require the submittal of data from all state organizations concerning purchasing and material control matters.

**Sec. 210.** RCW 43.19.1906 and 2008 c 215 s 5 are each amended to read as follows:

Insofar as practicable, all purchases and sales shall be based on competitive bids, and a formal sealed, electronic, or web-based bid procedure, subject to RCW 43.19.1911, shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the (~~state purchasing and material control~~) director and under the powers granted by RCW 43.19.190 through 43.19.1939. This requirement also applies to purchases and contracts for purchases and sales executed by agencies, including educational institutions, under delegated authority granted in accordance with provisions of RCW 43.19.190 or under RCW 28B.10.029. However, formal sealed, electronic, or web-based competitive bidding is not necessary for:

(1) Emergency purchases made pursuant to RCW 43.19.200 if the sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) ((Purchases not exceeding thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management: PROVIDED, That the state director of general administration shall establish procedures to assure that purchases made by or on behalf of the various state agencies shall not be made so as to avoid the thirty-five thousand dollar bid limitation, or subsequent bid limitations as calculated by the office of financial management: PROVIDED FURTHER, That the state purchasing and material control director is authorized to reduce the formal sealed bid limits of thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, to a lower dollar amount for purchases by individual state agencies if considered necessary to maintain full disclosure of competitive procurement or otherwise to achieve overall state efficiency and economy in purchasing and material control. Quotations from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. The agency shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. A record of competition for all such purchases from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be documented for audit purposes. Purchases up to three thousand dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost)) Direct buy purchases and informal competitive bidding, as designated by the director of enterprise services. The director of enterprise services shall establish policies annually to define criteria and dollar thresholds for direct buy purchases and informal competitive bidding limits. These criteria may be adjusted to accommodate special market conditions and to promote market diversity for the benefit of the citizens of the state of Washington;

(3) Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation;

(4) Purchases of insurance and bonds by the risk management ((division)) office under RCW 43.41.310 (as recodified by this act);

(5) Purchases and contracts for vocational rehabilitation clients of the department of social and health services: PROVIDED, That this exemption is effective only when the ((state purchasing and material control)) director of enterprise services, after consultation with the director of the division of vocational rehabilitation and appropriate department of social and health services procurement personnel, declares that such purchases may be best executed through direct negotiation with one or more suppliers in order to expeditiously meet the special needs of the state's vocational rehabilitation clients;

(6) Purchases by universities for hospital operation or biomedical teaching or research purposes and by the ((state purchasing and material control)) director of enterprise services, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, made by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations;

(7) Purchases for resale by institutions of higher education other than public agencies when such purchases are for the express purpose of supporting instructional programs and may best be executed through direct negotiation with one or more suppliers in order to meet the special needs of the institution;

(8) Purchases by institutions of higher education ((not exceeding thirty-five thousand dollars: PROVIDED, That for purchases between three thousand dollars and thirty-five thousand dollars quotations shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. For purchases between three thousand dollars and thirty-five thousand dollars, each institution of higher education shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. A record of competition for all such purchases made from three thousand to thirty-five thousand dollars shall be documented for audit purposes)) under RCW 43.19.190(2), direct buy purchases, and informal competitive bidding, as designated by the director of enterprise services; and

(9) Off-contract purchases of Washington grown food when such food is not available from Washington sources through an existing contract. However, Washington grown food purchased under this subsection must be of an equivalent or better quality than similar food available through the contract and be able to be paid from the agency's existing budget. This requirement also applies to purchases and contracts for purchases executed by state agencies, including institutions of higher education, under delegated authority granted in accordance with RCW 43.19.190 or under RCW 28B.10.029(=and

~~(10) Negotiation of a contract by the department of transportation, valid until June 30, 2001, with registered tow truck operators to provide roving service patrols in one or more Washington state patrol tow zones whereby those registered tow truck operators wishing to participate would cooperatively, with the department of transportation, develop a demonstration project upon terms and conditions negotiated by the parties).~~

Beginning on July 1, 1995, and on July 1st of each succeeding odd-numbered year, the dollar limits specified in this section shall be adjusted as follows: The office of financial management shall calculate such limits by adjusting the previous biennium's limits by the appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest one hundred dollars. ((However, the three thousand dollar figure in subsections (2) and (8) of this section may not be adjusted to exceed five thousand dollars.))

As used in this section, "Washington grown" has the definition in RCW 15.64.060.

**Sec. 211.** RCW 43.19.1908 and 2009 c 486 s 11 are each amended to read as follows:

Competitive bidding required by RCW 43.19.190 through 43.19.1939 shall be solicited by public notice, by posting of the contract opportunity on the state's common vendor registration and bid notification system, and through the sending of notices by mail, electronic transmission, or other means to bidders on the appropriate list of bidders who shall have qualified by application to the ((division of purchasing)) department. Bids may be solicited by the ((purchasing division)) department from any source thought to be of advantage to the state. All bids shall be in written or electronic form and conform to rules of the ((division of purchasing)) department.

**Sec. 212.** RCW 43.19.1913 and 1965 c 8 s 43.19.1913 are each amended to read as follows:

The ((division of purchasing)) department may reject the bid of any bidder who has failed to perform satisfactorily a previous contract with the state.



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

**Sec. 213.** RCW 43.19.1915 and 2009 c 549 s 5064 are each amended to read as follows:

When any bid has been accepted, the ~~((division of purchasing))~~ department may require of the successful bidder a bond payable to the state in such amount with such surety or sureties as determined by the ~~((division of purchasing))~~ department, conditioned that he or she will fully, faithfully and accurately execute the terms of the contract into which he or she has entered. The bond shall be filed in the ~~((office of the division of purchasing))~~ department. Bidders who regularly do business with the state shall be permitted to file with the ~~((division of purchasing))~~ department an annual bid bond in an amount established by the ~~((division))~~ department and such annual bid bond shall be acceptable as surety in lieu of furnishing surety with individual bids.

**Sec. 214.** RCW 43.19.1917 and 1979 c 88 s 3 are each amended to read as follows:

All state agencies, including educational institutions, shall maintain a perpetual record of ownership of state owned equipment, which shall be available for the inspection and check of those officers who are charged by law with the responsibility for auditing the records and accounts of the state organizations owning the equipment, or to such other special investigators and others as the governor may direct. In addition, these records shall be made available to members of the legislature, the legislative committees, and legislative staff on request.

All state agencies, including educational institutions, shall account to the office of financial management upon request for state equipment owned by, assigned to, or otherwise possessed by them and maintain such records as the office of financial management deems necessary for proper accountability therefor. The office of financial management shall publish a procedural directive for compliance by all state agencies, including educational institutions, which establishes a standard method of maintaining records for state owned equipment, including the use of standard state forms. This published directive also shall include instructions for reporting to the ~~((division of purchasing))~~ department all state equipment which is excess to the needs of state organizations owning such equipment. The term "state equipment" means all items of machines, tools, furniture, or furnishings other than expendable supplies and materials as defined by the office of financial management.

**Sec. 215.** RCW 43.19.1919 and 2000 c 183 s 1 are each amended to read as follows:

The ~~((division of purchasing))~~ department shall sell or exchange personal property belonging to the state for which the agency, office, department, or educational institution having custody thereof has no further use, at public or private sale, and cause the moneys realized from the sale of any such property to be paid into the fund from which such property was purchased or, if such fund no longer exists, into the state general fund. This requirement is subject to the following exceptions and limitations:

(1) This section does not apply to property under RCW 27.53.045, 28A.335.180, or 43.19.1920;

(2) Sales of capital assets may be made by the ~~((division of purchasing))~~ department and a credit established ~~((in central stores))~~ for future purchases of capital items as provided for in RCW 43.19.190 through 43.19.1939;

(3) Personal property, excess to a state agency, including educational institutions, shall not be sold or disposed of prior to reasonable efforts by the ~~((division of purchasing))~~ department to determine if other state agencies have a requirement for such personal property. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known. Surplus items may be disposed of without prior notification to state agencies if it is determined by the director ~~((of general administration))~~ to be in the best interest of the state. The

~~((division of purchasing))~~ department shall maintain a record of disposed surplus property, including date and method of disposal, identity of any recipient, and approximate value of the property;

(4) This section does not apply to personal property acquired by a state organization under federal grants and contracts if in conflict with special title provisions contained in such grants or contracts;

(5) A state agency having a surplus personal property asset with a fair market value of less than five hundred dollars may transfer the asset to another state agency without charging fair market value. A state agency conducting this action must maintain adequate records to comply with agency inventory procedures and state audit requirements.

**Sec. 216.** RCW 43.19.1919 and 1999 c 186 s 1 are each amended to read as follows:

(1) In addition to disposing of property under RCW 28A.335.180, 39.33.010, 43.19.1919, and 43.19.1920, state-owned, surplus computers and computer-related equipment may be donated to any school district or educational service district under the guidelines and distribution standards established pursuant to subsection (2) of this section.

(2) ~~((By September 1, 1999,))~~ The department and office of the superintendent of public instruction shall jointly develop guidelines and distribution standards for the donation of state-owned, surplus computers and computer-related equipment to school districts and educational service districts. The guidelines and distribution standards shall include considerations for quality, school-district needs, and accountability, and shall give priority to meeting the computer-related needs of children with disabilities, including those disabilities necessitating the portability of laptop computers. The guidelines must be updated as needed.

**Sec. 217.** RCW 43.19.1920 and 1995 c 399 s 63 are each amended to read as follows:

The ~~((division of purchasing))~~ department may donate state-owned, surplus, tangible personal property to shelters that are: Participants in the department of ~~((community, trade, and economic development))~~ commerce's emergency shelter assistance program; and operated by nonprofit organizations or units of local government providing emergency or transitional housing for homeless persons. A donation may be made only if all of the following conditions have been met:

(1) The ~~((division of purchasing))~~ department has made reasonable efforts to determine if any state agency has a requirement for such personal property and no such agency has been identified. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known;

(2) The agency owning the property has authorized the ~~((division of purchasing))~~ department to donate the property in accordance with this section;

(3) The nature and quantity of the property in question is directly germane to the needs of the homeless persons served by the shelter and the purpose for which the shelter exists and the shelter agrees to use the property for such needs and purposes; and

(4) The director ~~((of general administration))~~ has determined that the donation of such property is in the best interest of the state.

**Sec. 218.** RCW 43.19.1920 and 1995 c 399 s 64 are each amended to read as follows:

(1) The department ~~((of general administration))~~ shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department ~~((of general administration))~~ shall provide a copy of the inventory to the

department of ~~((community, trade, and economic development))~~ commerce by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department ~~((of general administration))~~ shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land.

**Sec. 219.** RCW 43.19.1921 and 1979 c 151 s 100 are each amended to read as follows:

The director ~~((of general administration, through the division of purchasing,))~~ shall:

(1) Establish and maintain warehouses ~~((hereinafter referred to as "central stores"))~~ for the centralized storage and distribution of such supplies, equipment, and other items of common use in order to effect economies in the purchase of supplies and equipment for state agencies. To provide ~~((central stores))~~ warehouse facilities the ~~((division of purchasing))~~ department may, by arrangement with the state agencies, utilize any surplus available state owned space, and may acquire other needed warehouse facilities by lease or purchase of the necessary premises;

(2) Provide for the central salvage ~~((, maintenance, repair, and servicing))~~ of equipment, furniture, or furnishings used by state agencies, and also by means of such a service provide an equipment pool for effecting sales and exchanges of surplus and unused property by and between state agencies. ~~((Funds derived from the sale and exchange of property shall be placed to the account of the appropriate state agency on the central stores accounts but such funds may not be expended through central stores without prior approval of the office of financial management.))~~

**Sec. 220.** RCW 43.19.1932 and 1989 c 185 s 2 are each amended to read as follows:

The department of corrections shall be exempt from the following provisions of this chapter in respect to goods or services purchased or sold pursuant to the operation of correctional industries: RCW 43.19.180, 43.19.190, 43.19.1901, 43.19.1905, 43.19.1906, 43.19.1908, 43.19.1911, 43.19.1913, 43.19.1915, 43.19.1917, 43.19.1919, 43.19.1921, ~~((43.19.1925,))~~ and 43.19.200.

**Sec. 221.** RCW 43.19.200 and 2009 c 549 s 5066 are each amended to read as follows:

(1) The governing authorities of the state's educational institutions, the elective state officers, the supreme court, the court of appeals, the administrative and other departments of the state government, and all appointive officers of the state, shall prepare estimates of the supplies required for the proper conduct and maintenance of their respective institutions, offices, and departments, covering periods to be fixed by the director, and forward them to the director in accordance with his or her directions. No such authorities, officers, or departments, or any officer or employee thereof, may purchase any article for the use of their institutions, offices, or departments, except in case of emergency purchases as provided in subsection (2) of this section.

(2) The authorities, officers, and departments enumerated in subsection (1) of this section may make emergency purchases in response to unforeseen circumstances beyond the control of the agency which present a real, immediate, and extreme threat to the proper performance of essential functions or which may reasonably be expected to result in excessive loss or damage to property, bodily injury, or loss of life. When an emergency purchase is made, the agency head shall submit written notification of the purchase, within three days of the purchase, to the director ~~((of general administration))~~. This notification shall contain a description of the purchase, description of the emergency and the circumstances leading up to the emergency, and an explanation of why the circumstances required an emergency purchase.

(3) Purchases made for the state's educational institutions, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of the state government, and the offices of all appointive officers of the state, shall be paid for out of the moneys appropriated for supplies, material, and service of the respective institutions, offices, and departments.

(4) The director ~~((of general administration))~~ shall submit, on an annual basis, the written notifications required by subsection (2) of this section to the director of financial management.

**Sec. 222.** RCW 43.19.450 and 1994 c 264 s 15 are each amended to read as follows:

The director ~~((of general administration))~~ shall appoint ~~((and deputize an assistant director to be known as the))~~ a supervisor of engineering and architecture ~~((who shall have charge and supervision of the division of engineering and architecture. With the approval of the director, the supervisor may appoint and employ such assistants and personnel as may be necessary to carry out the work of the division)).~~

~~((No))~~ A person ~~((shall be))~~ is not eligible for appointment as supervisor of engineering and architecture unless he or she is licensed to practice the profession of engineering or the profession of architecture in the state of Washington and for the last five years prior to his or her appointment has been licensed to practice the profession of engineering or the profession of architecture.

As used in this section, "state facilities" includes all state buildings, related structures, and appurtenances constructed for any elected state officials, institutions, departments, boards, commissions, colleges, community colleges, except the state universities, The Evergreen State College and regional universities. "State facilities" does not include facilities owned by or used for operational purposes and constructed for the department of transportation, department of fish and wildlife, department of natural resources, or state parks and recreation commission.

The director ~~((of general administration, through the division of engineering and architecture))~~ or the director's designee shall:

(1) Prepare cost estimates and technical information to accompany the capital budget and prepare or contract for plans and specifications for new construction and major repairs and alterations to state facilities.

(2) Contract for professional architectural, engineering, and related services for the design of new state facilities and major repair or alterations to existing state facilities.

(3) Provide contract administration for new construction and the repair and alteration of existing state facilities.

(4) In accordance with the public works laws, contract on behalf of the state for the new construction and major repair or alteration of state facilities.

The director may delegate any and all of the functions under subsections (1) through (4) of this section to any agency upon such terms and conditions as considered advisable.

~~((The director may delegate the authority granted to the department under RCW 39.04.150 to any agency upon such terms as considered advisable.))~~

**Sec. 223.** RCW 43.19.455 and 2005 c 36 s 6 are each amended to read as follows:

Except as provided under RCW 43.17.210, the Washington state arts commission shall determine the amount to be made available for the purchase of art under RCW 43.17.200 in consultation with the director ~~((of general administration))~~, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

commission in consultation with the director (~~(of general administration)~~).

**Sec. 224.** RCW 43.19.500 and 2005 c 330 s 6 are each amended to read as follows:

The (~~(general administration)~~) enterprise services account shall be used by the department (~~(of general administration)~~) for the payment of certain costs, expenses, and charges, as specified in this section, incurred by it in the operation and administration of the department in the rendering of services, the furnishing or supplying of equipment, supplies and materials, and for providing or allocating facilities, including the operation, maintenance, rehabilitation, or furnishings thereof to other agencies, offices, departments, activities, and other entities enumerated in RCW 43.01.090 and including the rendering of services in acquiring real estate under RCW 43.82.010 and the operation and maintenance of public and historic facilities at the state capitol, as defined in RCW 79.24.710. The department shall treat the rendering of services in acquiring real estate and the operation and maintenance of state capitol public and historic facilities as separate operating entities within the account for financial accounting and control.

The schedule of services, facilities, equipment, supplies, materials, maintenance, rehabilitation, furnishings, operations, and administration to be so financed and recovered shall be determined jointly by the director (~~(of general administration)~~) and the director of financial management, in equitable amounts which, together with any other income or appropriation, will provide the department (~~(of general administration)~~) with funds to meet its anticipated expenditures during any allotment period.

The director (~~(of general administration)~~) may adopt rules governing the provisions of RCW 43.01.090 and this section and the relationships and procedures between the department (~~(of general administration)~~) and such other entities.

**Sec. 225.** RCW 43.19.501 and 2009 c 564 s 932 are each amended to read as follows:

The Thurston county capital facilities account is created in the state treasury. The account is subject to the appropriation and allotment procedures under chapter 43.88 RCW. Moneys in the account may be expended for capital projects in facilities owned and managed by the department (~~(of general administration)~~) in Thurston county. For the 2007-2009 biennium, moneys in the account may be used for redesign identified in section 1037, chapter 328, Laws of 2008.

During the 2009-2011 fiscal biennium, the legislature may transfer from the Thurston county capital facilities account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 226.** RCW 43.19.530 and 2005 c 204 s 2 are each amended to read as follows:

The state agencies and departments are hereby authorized to purchase products and/or services manufactured or provided by (~~(1) community rehabilitation programs of the department of social and health services; and~~  
~~(2) Until December 31, 2009, businesses owned and operated by persons with disabilities).~~

Such purchases shall be at the fair market price of such products and services as determined by the (~~(division of purchasing of the)~~) department of (~~(general administration)~~) enterprise services. To determine the fair market price the (~~(division)~~) department shall use the last comparable bid on the products and/or services or in the alternative the last price paid for the products and/or services. The increased cost of labor, materials, and other documented costs since the last comparable bid or the last price paid are additional cost factors which shall be considered in determining fair market price. Upon the establishment of the fair market price as provided for in this section the (~~(division)~~) department is hereby empowered to

negotiate directly for the purchase of products or services with officials in charge of the community rehabilitation programs of the department of social and health services (~~(and, until December 31, 2007, businesses owned and operated by persons with disabilities)~~).

**Sec. 227.** RCW 43.19.534 and 2009 c 470 s 717 are each amended to read as follows:

(1) State agencies, the legislature, and departments shall purchase for their use all goods and services required by the legislature, agencies, or departments that are produced or provided in whole or in part from class II inmate work programs operated by the department of corrections through state contract. These goods and services shall not be purchased from any other source unless, upon application by the department or agency: (a) The department (~~(of general administration)~~) finds that the articles or products do not meet the reasonable requirements of the agency or department, (b) are not of equal or better quality, or (c) the price of the product or service is higher than that produced by the private sector. However, the criteria contained in (a), (b), and (c) of this (~~(section)~~) subsection for purchasing goods and services from sources other than correctional industries do not apply to goods and services produced by correctional industries that primarily replace goods manufactured or services obtained from outside the state. The department of corrections and department (~~(of general administration)~~) shall adopt administrative rules that implement this section.

(2) During the 2009-2011 fiscal biennium, and in conformance with section 223(11), chapter 470, Laws of 2009, this section does not apply to the purchase of uniforms by the Washington state ferries.

**Sec. 228.** RCW 43.19.538 and 1991 c 297 s 5 are each amended to read as follows:

(1) The director (~~(of general administration, through the state purchasing director)~~) shall develop specifications and adopt rules for the purchase of products which will provide for preferential purchase of products containing recycled material by:

(a) The use of a weighting factor determined by the amount of recycled material in a product, where appropriate and known in advance to potential bidders, to determine the lowest responsible bidder. The actual dollars bid shall be the contracted amount. If the department determines, according to criteria established by rule that the use of this weighting factor does not encourage the use of more recycled material, the department shall consider and award bids without regard to the weighting factor. In making this determination, the department shall consider but not be limited to such factors as adequate competition, economics or environmental constraints, quality, and availability.

(b) Requiring a written statement of the percentage range of recycled content from the bidder providing products containing recycled [material]. The range may be stated in five percent increments.

(2) The director shall develop a directory of businesses that supply products containing significant quantities of recycled materials. This directory may be combined with and made accessible through the database of recycled content products to be developed under RCW 43.19A.060.

(3) The director shall encourage all parties using the state purchasing office to purchase products containing recycled materials.

(4) The rules, specifications, and bid evaluation shall be consistent with recycled content standards adopted under RCW 43.19A.020.

**Sec. 229.** RCW 43.19.539 and 2006 c 183 s 36 are each amended to read as follows:

(1) The department (~~(of general administration)~~) shall establish purchasing and procurement policies that establish a preference for

electronic products that meet environmental performance standards relating to the reduction or elimination of hazardous materials.

(2) The department ~~((of general administration))~~ shall ensure that their surplus electronic products, other than those sold individually to private citizens, are managed only by registered transporters and by processors meeting the requirements of RCW 70.95N.250 ~~((and section 26 of this act))~~.

(3) The department ~~((of general administration))~~ shall ensure that their surplus electronic products are directed to legal secondary materials markets by requiring a chain of custody record that documents to whom the products were initially delivered through to the end use manufacturer.

**Sec. 230.** RCW 43.19.560 and 1983 c 187 s 3 are each amended to read as follows:

As used in RCW 43.19.565 through 43.19.635, 43.41.130 and 43.41.140, the following definitions shall apply:

(1) "Passenger motor vehicle" means any sedan, station wagon, bus, or light truck which is designed for carrying ten passengers or less and is used primarily for the transportation of persons;

(2) "State agency" shall include any state office, agency, commission, department, or institution financed in whole or in part from funds appropriated by the legislature. It shall also include the Washington state school director's association ~~((and the state printer))~~, but it shall not include (a) the state supreme court or any agency of the judicial branch or (b) the legislature or any of its statutory, standing, special, or interim committees, other than at the option of the judicial or legislative agency or committee concerned;

(3) "Employee commuting" shall mean travel by a state officer or employee to or from his or her official residence or other domicile to or from his or her official duty station or other place of work;

(4) "Motor vehicle transportation services" shall include but not be limited to the furnishing of motor vehicles for the transportation of persons or property, with or without drivers, and may also include furnishing of maintenance, storage, and other support services to state agencies for the conduct of official state business.

**Sec. 231.** RCW 43.19.565 and 2005 c 214 s 1 are each amended to read as follows:

The department ~~((of general administration))~~ shall establish a motor vehicle transportation service which is hereby empowered to:

(1) Provide suitable motor vehicle transportation services to ~~((any))~~ state ~~((agency))~~ agencies on either a temporary or permanent basis ~~((upon requisition from a state agency))~~ and upon such demonstration of need as the department may require;

(2) Provide motor pools for the use of state agencies located in the Olympia area and such additional motor pools at other locations in the state as may be necessary to provide economic, efficient, and effective motor vehicle transportation services to state agencies. Such additional motor pools may be under either the direct control of the department or under the supervision of another state agency by agreement with the department;

(3) Establish an equitable schedule of rental and mileage charges to agencies for motor vehicle transportation services furnished which shall be designed to provide funds to ~~((cover replacement of vehicles, the purchase of additional vehicles, and to))~~ recover the actual total costs of motor pool operations including but not limited to vehicle operation expense, depreciation expense, overhead, and nonrecoverable collision or other damage to vehicles; and

(4) Establish guidelines, procedures, and standards for fleet operations that other state agencies and institutions of higher education may adopt. The guidelines, procedures, and standards shall be consistent with and carry out the objectives of any general policies adopted by the office of financial management under RCW 43.41.130.

Unless otherwise determined by the director after consultation with the office of financial management, vehicles owned and managed

by the department of transportation, the department of natural resources, and the Washington state patrol are exempt from the requirements of subsections (1), (2), and (4) of this section.

**Sec. 232.** RCW 43.19.585 and 1975 1st ex.s. c 167 s 7 are each amended to read as follows:

The director ~~((of general administration shall appoint a supervisor of motor transport, who))~~ or the director's designee shall have general charge and supervision of state motor pools and motor vehicle transportation services under departmental administration and control. ~~((The appointment of all personnel, except the supervisor, shall be made pursuant to chapter 41.06 RCW, the state civil service law, as now or hereafter amended.~~

~~—With the approval of) The director~~ ~~((, the supervisor shall (1) appoint and employ such assistants and personnel as may be necessary, (2))~~ or the director's designee shall (1) acquire by purchase or otherwise a sufficient number of motor vehicles to fulfill state agency needs for motor vehicle transportation service, ((3)) (2) provide for necessary ((storage,)) upkeep ((,)) and repair, and ((4)) (3) provide for servicing motor pool vehicles with fuel, lubricants, and other operating requirements.

**Sec. 233.** RCW 43.19.600 and 2009 c 549 s 5068 are each amended to read as follows:

(1) ~~((On or after July 1, 1975,))~~ Any passenger motor vehicles currently owned or hereafter acquired by any state agency ~~((, except vehicles acquired from federal granted funds and over which the federal government retains jurisdiction and control, may))~~ shall be purchased by or transferred to the department ~~((of general administration with the consent of the state agency concerned)).~~ The director ~~((of general administration))~~ may accept vehicles subject to the provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 prior to July 1, 1975, if he or she deems it expedient to accomplish an orderly transition.

(2) The department, in cooperation with the office of financial management, shall study and ascertain current and prospective needs of state agencies for passenger motor vehicles and shall ~~((recommend))~~ direct the transfer to a state motor pool or other appropriate disposition of any vehicle found not to be required by a state agency.

(3) The department shall direct the transfer of passenger motor vehicles from a state agency to a state motor pool or other disposition as appropriate, based on a study under subsection (2) of this section, ~~((or after a public hearing held by the department,))~~ if a finding is made based on ~~((testimony and))~~ data therein submitted that the economy, efficiency, or effectiveness of state government would be improved by such a transfer or other disposition of passenger motor vehicles. Any dispute over the accuracy of ~~((testimony and))~~ data submitted as to the benefits in state governmental economy, efficiency, and effectiveness to be gained by such transfer shall be resolved by the ~~((governor or the governor's designee))~~ director and the director of financial management. Unless otherwise determined by the director after consultation with the office of financial management, vehicles owned and managed by the department of transportation, the department of natural resources, and the Washington state patrol are exempt from the requirements of subsections (1) through (3) of this section.

**Sec. 234.** RCW 43.19.610 and 1998 c 105 s 12 are each amended to read as follows:

All moneys, funds, proceeds, and receipts as ~~((provided in RCW 43.19.615 and as may otherwise be))~~ provided by law shall be paid into the ~~((general administration))~~ enterprise services account. Disbursements therefrom shall be made in accordance with the provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 as authorized by the director or a duly authorized representative and as may be provided by law.

**Sec. 235.** RCW 43.19.620 and 2009 c 549 s 5069 are each amended to read as follows:

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

The director (~~(of general administration, through the supervisor of motor transport,)~~) shall adopt (~~(, promulgate,)~~) and enforce (~~(such regulations)~~) rules as may be deemed necessary to accomplish the purpose of RCW 43.19.560 through 43.19.630, 43.41.130, and 43.41.140. (~~(Such regulations)~~) The rules, in addition to other matters, shall provide authority for any agency director or his or her delegate to approve the use on official state business of personally owned or commercially owned rental passenger motor vehicles. Before such an authorization is made, it must first be reasonably determined that state owned passenger vehicles or other suitable transportation is not available at the time or location required or that the use of such other transportation would not be conducive to the economical, efficient, and effective conduct of business.

(~~(Such regulations)~~) The rules shall be consistent with and shall carry out the objectives of the general policies and guidelines adopted by the office of financial management pursuant to RCW 43.41.130.

**Sec. 236.** RCW 43.19.635 and 2009 c 549 s 5071 are each amended to read as follows:

(1) The governor, acting through the department (~~(of general administration)~~) and any other appropriate agency or agencies as he or she may direct, is empowered to utilize all reasonable means for detecting the unauthorized use of state owned motor vehicles, including the execution of agreements with the state patrol for compliance enforcement. Whenever such illegal use is discovered which involves a state employee, the employing agency shall proceed as provided by law to establish the amount, extent, and dollar value of any such use, including an opportunity for notice and hearing for the employee involved. When such illegal use is so established, the agency shall assess its full cost of any mileage illegally used and shall recover such amounts by deductions from salary or allowances due to be paid to the offending official or employee by other means. Recovery of costs by the state under this subsection shall not preclude disciplinary or other action by the appropriate appointing authority or employing agency under subsection (2) of this section.

(2) Any (~~(willful)~~) willful and knowing violation of any provision of RCW 43.19.560 through 43.19.620, 43.41.130 and 43.41.140 shall subject the state official or employee committing such violation to disciplinary action by the appropriate appointing or employing agency. Such disciplinary action may include, but shall not be limited to, suspension without pay, or termination of employment in the case of repeated violations.

(3) Any casual or inadvertent violation of RCW 43.19.560 through 43.19.620, 43.41.130 and 43.41.140 may subject the state official or employee committing such violation to disciplinary action by the appropriate appointing authority or employing agency. Such disciplinary action may include, but need not be limited to, suspension without pay.

**Sec. 237.** RCW 43.19.646 and 2006 c 338 s 12 are each amended to read as follows:

(1) The department (~~(of general administration)~~) must assist state agencies seeking to meet the biodiesel fuel requirements in RCW 43.19.642 by coordinating the purchase and delivery of biodiesel if requested by any state agency. The department may use long-term contracts of up to ten years, when purchasing from in-state suppliers who use predominantly in-state feedstock, to secure a sufficient and stable supply of biodiesel for use by state agencies.

(2) The department shall compile and analyze the reports submitted under RCW 43.19.642(~~(4)~~) (3) and report in an electronic format its findings and recommendations to the governor and committees of the legislature with responsibility for energy issues, within sixty days from the end of each reporting period. The governor shall consider these reports in determining whether to

temporarily suspend minimum renewable fuel content requirements as authorized under RCW 19.112.160.

**Sec. 238.** RCW 43.19.663 and 2002 c 285 s 4 are each amended to read as follows:

(1) The department (~~(of general administration)~~), in cooperation with public agencies, shall investigate opportunities to aggregate the purchase of clean technologies with other public agencies to determine whether or not combined purchasing can reduce the unit cost of clean technologies.

(2) State agencies that are retail electric customers shall investigate opportunities to aggregate the purchase of electricity produced from generation resources that are fueled by wind or solar energy for their facilities located within a single utility's service area, to determine whether or not combined purchasing can reduce the unit cost of those resources.

(3) No public agency is required under this section to purchase clean technologies at prohibitive costs.

(4)(a) "Electric utility" shall have the same meaning as provided under RCW 19.29A.010.

(b) "Clean technology" includes, but may not be limited to, alternative fueled hybrid-electric and fuel cell vehicles, and distributive power generation.

(c) "Distributive power generation" means the generation of electricity from an integrated or stand-alone power plant that generates electricity from wind energy, solar energy, or fuel cells.

(d) "Retail electric customer" shall have the same meaning as provided under RCW 19.29A.010.

(e) "Facility" means any building owned or leased by a public agency.

**Sec. 239.** RCW 43.19.685 and 1982 c 48 s 4 are each amended to read as follows:

The director (~~(of general administration)~~) shall develop lease covenants, conditions, and terms which:

(1) Obligate the lessor to conduct or have conducted a walk-through survey of the leased premises;

(2) Obligate the lessor to implement identified energy conservation maintenance and operating procedures upon completion of the walk-through survey; and

(3) Obligate the lessor to undertake technical assistance studies and subsequent acquisition and installation of energy conservation measures if the director (~~(of general administration)~~), in accordance with rules adopted by the department, determines that these studies and measures will both conserve energy and can be accomplished with a state funding contribution limited to the savings which would result in utility expenses during the term of the lease.

These lease covenants, conditions, and terms shall be incorporated into all specified new, renewed, and renegotiated leases executed on or after January 1, 1983. This section applies to all leases under which state occupancy is at least half of the facility space and includes an area greater than three thousand square feet.

**Sec. 240.** RCW 43.19.702 and 1983 c 183 s 2 are each amended to read as follows:

The director (~~(of general administration)~~) shall compile a list of the statutes and regulations, relating to state purchasing, of each state, which statutes and regulations the director believes grant a preference to vendors located within the state or goods manufactured within the state. At least once every twelve months the director shall update the list.

**Sec. 241.** RCW 43.19.704 and 1983 c 183 s 3 are each amended to read as follows:

The director (~~(of general administration)~~) shall adopt and apply rules designed to provide for some reciprocity in bidding between Washington and those states having statutes or regulations on the list under RCW 43.19.702. The director (~~(of general administration)~~) shall have broad discretionary power in developing these rules and

the rules shall provide for reciprocity only to the extent and in those instances where the director considers it appropriate. For the purpose of determining the lowest responsible bidder pursuant to RCW 43.19.1911, such rules shall (1) require the director to impose a reciprocity increase on bids when appropriate under the rules and (2) establish methods for determining the amount of the increase. In no instance shall such increase, if any, be paid to a vendor whose bid is accepted.

**Sec. 242.** RCW 43.19.708 and 2010 c 5 s 5 are each amended to read as follows:

The department (~~(of general administration)~~) shall identify in the department's vendor registry all vendors that are veteran-owned businesses as certified by the department of veterans affairs under RCW 43.60A.195.

**Sec. 243.** RCW 43.19.710 and 1993 c 219 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 43.19.715.

(1) "Consolidated mail service" means incoming, outgoing, and internal mail processing.

(2) ("Department" means the department of general administration.

(3) "Director" means the director of the department of general administration.

(4) "Agency" means:

(a) The office of the governor; and

(b) Any office, department, board, commission, or other separate unit or division, however designated, of the state government, together with all personnel thereof: Upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature; and that has as its chief executive officer a person or combination of persons such as a commission, board, or council, by law empowered to operate it, responsible either to: (i) No other public officer or (ii) the governor.

(5)) "Incoming mail" means mail, packages, or similar items received by an agency, through the United States postal service, private carrier services, or other courier services.

~~((6))~~ (3) "Outgoing mail" means mail, packages, or similar items processed for agencies to be sent through the United States postal service, private carrier services, or other courier services.

~~((7))~~ (4) "Internal mail" means interagency mail, packages, or similar items that are delivered or to be delivered to a state agency, the legislature, the supreme court, or the court of appeals, and their officers and employees.

**Sec. 244.** RCW 19.27.070 and 2010 c 275 s 1 are each amended to read as follows:

There is hereby established a state building code council, to be appointed by the governor.

(1) The state building code council shall consist of fifteen members:

(a) Two members must be county elected legislative body members or elected executives;

(b) Two members must be city elected legislative body members or mayors;

(c) One member must be a local government building code enforcement official;

(d) One member must be a local government fire service official;

(e) One member shall represent general construction, specializing in commercial and industrial building construction;

(f) One member shall represent general construction, specializing in residential and multifamily building construction;

(g) One member shall represent the architectural design profession;

(h) One member shall represent the structural engineering profession;

(i) One member shall represent the mechanical engineering profession;

(j) One member shall represent the construction building trades;

(k) One member shall represent manufacturers, installers, or suppliers of building materials and components;

(l) One member must be a person with a physical disability and shall represent the disability community; and

(m) One member shall represent the general public.

(2) At least six of these fifteen members shall reside east of the crest of the Cascade mountains.

(3) The council shall include: Two members of the house of representatives appointed by the speaker of the house, one from each caucus; two members of the senate appointed by the president of the senate, one from each caucus; and an employee of the electrical division of the department of labor and industries, as ex officio, nonvoting members with all other privileges and rights of membership.

(4)(a) Terms of office shall be for three years, or for so long as the member remains qualified for the appointment.

(b) The council shall elect a member to serve as chair of the council for one-year terms of office.

(c) Any member who is appointed by virtue of being an elected official or holding public employment shall be removed from the council if he or she ceases being such an elected official or holding such public employment.

(d) Any member who is appointed to represent a specific private sector industry must maintain sufficiently similar employment or circumstances throughout the term of office to remain qualified to represent the specified industry. Retirement or unemployment is not cause for termination. However, if a councilmember enters into employment outside of the industry he or she has been appointed to represent, then he or she shall be removed from the council.

(e) Any member who no longer qualifies for appointment under this section may not vote on council actions, but may participate as an ex officio, nonvoting member until a replacement member is appointed. A member must notify the council staff and the governor's office within thirty days of the date the member no longer qualifies for appointment under this section. The governor shall appoint a qualified replacement for the member within sixty days of notice.

(5) Before making any appointments to the building code council, the governor shall seek nominations from recognized organizations which represent the entities or interests identified in this section.

(6) Members shall not be compensated but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) The department of (~~commerce~~) enterprise services shall provide administrative and clerical assistance to the building code council.

**Sec. 245.** RCW 19.27A.140 and 2010 c 271 s 305 are each amended to read as follows:

The definitions in this section apply to RCW 19.27A.130 through 19.27A.190 and 19.27A.020 unless the context clearly requires otherwise.

(1) "Benchmark" means the energy used by a facility as recorded monthly for at least one year and the facility characteristics information inputs required for a portfolio manager.

(2) "Conditioned space" means conditioned space, as defined in the Washington state energy code.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(4) "Cost-effectiveness" means that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

(5) "Council" means the state building code council.

(6) "Embodied energy" means the total amount of fossil fuel energy consumed to extract raw materials and to manufacture, assemble, transport, and install the materials in a building and the life-cycle cost benefits including the recyclability and energy efficiencies with respect to building materials, taking into account the total sum of current values for the costs of investment, capital, installation, operating, maintenance, and replacement as estimated for the lifetime of the product or project.

(7) "Energy consumption data" means the monthly amount of energy consumed by a customer as recorded by the applicable energy meter for the most recent twelve-month period.

(8) "Energy service company" has the same meaning as in RCW 43.19.670.

(9) "~~((General administration))~~ Enterprise services" means the department of ~~((general administration))~~ enterprise services.

(10) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(11) "Investment grade energy audit" means an intensive engineering analysis of energy efficiency and management measures for the facility, net energy savings, and a cost-effectiveness determination.

(12) "Investor-owned utility" means a corporation owned by investors that meets the definition of "corporation" as defined in RCW 80.04.010 and is engaged in distributing either electricity or natural gas, or both, to more than one retail electric customer in the state.

(13) "Major facility" means any publicly owned or leased building, or a group of such buildings at a single site, having ten thousand square feet or more of conditioned floor space.

(14) "National energy performance rating" means the score provided by the energy star program, to indicate the energy efficiency performance of the building compared to similar buildings in that climate as defined in the United States environmental protection agency "ENERGY STAR® Performance Ratings Technical Methodology."

(15) "Net zero energy use" means a building with net energy consumption of zero over a typical year.

(16) "Portfolio manager" means the United States environmental protection agency's energy star portfolio manager or an equivalent tool adopted by the department of ~~((general administration))~~ enterprise services.

(17) "Preliminary energy audit" means a quick evaluation by an energy service company of the energy savings potential of a building.

(18) "Qualifying public agency" includes all state agencies, colleges, and universities.

(19) "Qualifying utility" means a consumer-owned or investor-owned gas or electric utility that serves more than twenty-five thousand customers in the state of Washington.

(20) "Reporting public facility" means any of the following:

(a) A building or structure, or a group of buildings or structures at a single site, owned by a qualifying public agency, that exceed ten thousand square feet of conditioned space;

(b) Buildings, structures, or spaces leased by a qualifying public agency that exceeds ten thousand square feet of conditioned space, where the qualifying public agency purchases energy directly from the investor-owned or consumer-owned utility;

(c) A wastewater treatment facility owned by a qualifying public agency; or

(d) Other facilities selected by the qualifying public agency.

(21) "State portfolio manager master account" means a portfolio manager account established to provide a single shared portfolio that includes reports for all the reporting public facilities.

**Sec. 246.** RCW 39.34.055 and 1994 c 98 s 1 are each amended to read as follows:

The ~~((office of state procurement within the))~~ department of ~~((general administration))~~ enterprise services may enter into an agreement with a public benefit nonprofit corporation to allow the public benefit nonprofit corporation to participate in state contracts for purchases administered by the ~~((office of state procurement))~~ department. Such agreement must comply with the requirements of RCW 39.34.030 through 39.34.050. For the purposes of this section "public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03.005 that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or a political subdivision of another state.

**Sec. 247.** RCW 39.35.030 and 2001 c 214 s 16 are each amended to read as follows:

For the purposes of this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

(1) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and all political subdivisions of the state.

(2) "Department" means the state department of ~~((general administration))~~ enterprise services.

(3) "Major facility" means any publicly owned or leased building having twenty-five thousand square feet or more of usable floor space.

(4) "Initial cost" means the moneys required for the capital construction or renovation of a major facility.

(5) "Renovation" means additions, alterations, or repairs within any twelve-month period which exceed fifty percent of the value of a major facility and which will affect any energy system.

(6) "Economic life" means the projected or anticipated useful life of a major facility as expressed by a term of years.

(7) "Energy management system" means a program, energy efficiency equipment, technology, device, or other measure including, but not limited to, a management, educational, or promotional program, smart appliance, meter reading system that provides energy information capability, computer software or hardware, communications equipment or hardware, thermostat or other control equipment, together with related administrative or operational programs, that allows identification and management of opportunities for improvement in the efficiency of energy use, including but not limited to a measure that allows:

(a) Energy consumers to obtain information about their energy usage and the cost of energy in connection with their usage;

(b) Interactive communication between energy consumers and their energy suppliers;

(c) Energy consumers to respond to energy price signals and to manage their purchase and use of energy; or

(d) For other kinds of dynamic, demand-side energy management.

(8) "Life-cycle cost" means the initial cost and cost of operation of a major facility over its economic life. This shall be calculated as the initial cost plus the operation, maintenance, and energy costs over its economic life, reflecting anticipated increases in these costs discounted to present value at the current rate for borrowing public funds, as determined by the office of financial management. The energy cost projections used shall be those provided by the department. The department shall update these projections at least every two years.

(9) "Life-cycle cost analysis" includes, but is not limited to, the following elements:

(a) The coordination and positioning of a major facility on its physical site;

(b) The amount and type of fenestration employed in a major facility;

(c) The amount of insulation incorporated into the design of a major facility;

(d) The variable occupancy and operating conditions of a major facility; and

(e) An energy-consumption analysis of a major facility.

(10) "Energy systems" means all utilities, including, but not limited to, heating, air-conditioning, ventilating, lighting, and the supplying of domestic hot water.

(11) "Energy-consumption analysis" means the evaluation of all energy systems and components by demand and type of energy including the internal energy load imposed on a major facility by its occupants, equipment, and components, and the external energy load imposed on a major facility by the climatic conditions of its location. An energy-consumption analysis of the operation of energy systems of a major facility shall include, but not be limited to, the following elements:

(a) The comparison of three or more system alternatives, at least one of which shall include renewable energy systems, and one of which shall comply at a minimum with the sustainable design guidelines of the United States green building council leadership in energy and environmental design silver standard or similar design standard as may be adopted by rule by the department;

(b) The simulation of each system over the entire range of operation of such facility for a year's operating period; and

(c) The evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

The energy-consumption analysis shall be prepared by a professional engineer or licensed architect who may use computers or such other methods as are capable of producing predictable results.

(12) "Renewable energy systems" means methods of facility design and construction and types of equipment for the utilization of renewable energy sources including, but not limited to, hydroelectric power, active or passive solar space heating or cooling, domestic solar water heating, windmills, waste heat, biomass and/or refuse-derived fuels, photovoltaic devices, and geothermal energy.

(13) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source. Where these forms are electricity and thermal energy, then the operating and efficiency standards established by 18 C.F.R. Sec. 292.205 and the definitions established by 18 C.F.R. 292.202 (c) through (m) as of July 28, 1991, shall apply.

(14) "Selected buildings" means educational, office, residential care, and correctional facilities that are designed to comply with the design standards analyzed and recommended by the department.

(15) "Design standards" means the heating, air-conditioning, ventilating, and renewable resource systems identified, analyzed, and recommended by the department as providing an efficient

energy system or systems based on the economic life of the selected buildings.

**Sec. 248.** RCW 39.35C.010 and 2007 c 39 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) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source. If these forms are electricity and thermal energy, then the operating and efficiency standards established by 18 C.F.R. Sec. 292.205 and the definitions established by 18 C.F.R. Sec. 292.202 (c) through (m) apply.

(2) "Conservation" means reduced energy consumption or energy cost, or increased efficiency in the use of energy, and activities, measures, or equipment designed to achieve such results, but does not include thermal or electric energy production from cogeneration. "Conservation" also means reductions in the use or cost of water, wastewater, or solid waste.

(3) "Cost-effective" means that the present value to a state agency or school district of the energy reasonably expected to be saved or produced by a facility, activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

(4) "Energy" means energy as defined in RCW 43.21F.025~~((4))~~(5).

(5) "Energy audit" has the definition provided in RCW 43.19.670, and may include a determination of the water or solid waste consumption characteristics of a facility.

(6) "Energy efficiency project" means a conservation or cogeneration project.

(7) "Energy efficiency services" means assistance furnished by the department to state agencies and school districts in identifying, evaluating, and implementing energy efficiency projects.

(8) "Department" means the state department of ~~((general administration))~~ enterprise services.

(9) "Performance-based contracting" means contracts for which payment is conditional on achieving contractually specified energy savings.

(10) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and all political subdivisions of the state.

(11) "Public facility" means a building or structure, or a group of buildings or structures at a single site, owned by a state agency or school district.

(12) "State agency" means every state office or department, whether elective or appointive, state institutions of higher education, and all boards, commissions, or divisions of state government, however designated.

(13) "State facility" means a building or structure, or a group of buildings or structures at a single site, owned by a state agency.

(14) "Utility" means privately or publicly owned electric and gas utilities, electric cooperatives and mutuals, whether located within or without Washington state.

(15) "Local utility" means the utility or utilities in whose service territory a public facility is located.

**Sec. 249.** RCW 39.35D.020 and 2006 c 263 s 330 are each amended to read as follows:

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

(1) "Department" means the department of ~~((general administration))~~ enterprise services.



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(2) "High-performance public buildings" means high-performance public buildings designed, constructed, and certified to a standard as identified in this chapter.

(3) "Institutions of higher education" means the state universities, the regional universities, The Evergreen State College, the community colleges, and the technical colleges.

(4) "LEED silver standard" means the United States green building council leadership in energy and environmental design green building rating standard, referred to as silver standard.

(5)(a) "Major facility project" means: (i) A construction project larger than five thousand gross square feet of occupied or conditioned space as defined in the Washington state energy code; or (ii) a building renovation project when the cost is greater than fifty percent of the assessed value and the project is larger than five thousand gross square feet of occupied or conditioned space as defined in the Washington state energy code.

(b) "Major facility project" does not include: (i) Projects for which the department, public school district, or other applicable agency and the design team determine the LEED silver standard or the Washington sustainable school design protocol to be not practicable; or (ii) transmitter buildings, pumping stations, hospitals, research facilities primarily used for sponsored laboratory experimentation, laboratory research, or laboratory training in research methods, or other similar building types as determined by the department. When the LEED silver standard is determined to be not practicable for a project, then it must be determined if any LEED standard is practicable for the project. If LEED standards or the Washington sustainable school design protocol are not followed for the project, the public school district or public agency shall report these reasons to the department.

(6) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and public higher education institution.

(7) "Public school district" means a school district eligible to receive state basic education moneys pursuant to RCW 28A.150.250 and 28A.150.260.

(8) "Washington sustainable school design protocol" means the school design protocol and related information developed by the office of the superintendent of public instruction, in conjunction with school districts and the school facilities advisory board.

**Sec. 250.** RCW 43.19A.010 and 1992 c 174 s 12 are each amended to read as follows:

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

(1) "Compost products" means mulch, soil amendments, ground cover, or other landscaping material derived from the biological or mechanical conversion of biosolids or cellulose-containing waste materials.

(2) "Department" means the department of ~~((general administration))~~ enterprise services.

(3) "Director" means the director of the department of ~~((general administration))~~ enterprise services.

(4) "Local government" means a city, town, county, special purpose district, school district, or other municipal corporation.

(5) "Lubricating oil" means petroleum-based oils for reducing friction in engine parts and other mechanical parts.

(6) "Mixed waste paper" means assorted low-value grades of paper that have not been separated into individual grades of paper at the point of collection.

(7) "Municipal sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a publicly owned wastewater treatment plant.

(8) "Biosolids" means municipal sewage sludge or septic tank septage sludge that meets the requirements of chapter 70.95J.

(9) "Paper and paper products" means all items manufactured from paper or paperboard.

(10) "Postconsumer waste" means a material or product that has served its intended use and has been discarded for disposal or recovery by a final consumer.

(11) "Procurement officer" means the person that has the primary responsibility for procurement of materials or products.

(12) "State agency" means all units of state government, including divisions of the governor's office, the legislature, the judiciary, state agencies and departments, correctional institutions, vocational technical institutions, and universities and colleges.

(13) "Recycled content product" or "recycled product" means a product containing recycled materials.

(14) "Recycled materials" means waste materials and by-products that have been recovered or diverted from solid waste and that can be utilized in place of a raw or virgin material in manufacturing a product and consists of materials derived from postconsumer waste, manufacturing waste, industrial scrap, agricultural wastes, and other items, all of which can be used in the manufacture of new or recycled products.

(15) "Re-refined oils" means used lubricating oils from which the physical and chemical contaminants acquired through previous use have been removed through a refining process. Re-refining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals, or other physical treatments other than those used in reclaiming.

(16) "USEPA product standards" means the product standards of the United States environmental protection agency for recycled content published in the code of federal regulations.

**Sec. 251.** RCW 43.19A.022 and 2009 c 356 s 2 are each amended to read as follows:

(1) ~~((By December 31, 2009,))~~ All state agencies shall purchase one hundred percent recycled content white cut sheet bond paper used in office printers and copiers. State agencies are encouraged to give priority to purchasing from companies that produce paper in facilities that generate energy from a renewable energy source.

(2) State agencies that utilize office printers and copiers that, after reasonable attempts, cannot be calibrated to utilize such paper referenced in subsection (1) of this section, must for those models of equipment:

(a) Purchase paper at the highest recycled content that can be utilized efficiently by the copier or printer;

(b) At the time of lease renewal or at the end of the life-cycle, either lease or purchase a model that will efficiently utilize one hundred percent recycled content white cut sheet bond paper;

(3) Printed projects that require the use of high volume production inserters or high-speed digital devices, such as those used by ~~((the state printer, department of information services, and))~~ the department of ~~((general administration))~~ enterprise services, are not required to meet the one hundred percent recycled content white cut sheet bond paper standard, but must utilize the highest recycled content that can be utilized efficiently by such equipment and not impede the business of agencies.

(4) The ~~((state printer,))~~ department of ~~((general administration,))~~ enterprise services and the department of information services shall work together to identify for use by agencies one hundred percent recycled paper products that process efficiently through high-speed production equipment and do not impede the business of agencies.

**Sec. 252.** RCW 39.32.035 and 1998 c 105 s 3 are each amended to read as follows:

The ~~((general administration))~~ enterprise services account shall be administered by the director of ~~((general administration))~~ enterprise services and be used for the purchase, lease or other acquisition from time to time of surplus property from any federal,

state, or local government surplus property disposal agency. The director may purchase, lease or acquire such surplus property on the requisition of an eligible donee and without such requisition at such time or times as he or she deems it advantageous to do so; and in either case he or she shall be responsible for the care and custody of the property purchased so long as it remains in his or her possession.

**Sec. 253.** RCW 43.01.225 and 1995 c 215 s 2 are each amended to read as follows:

There is hereby established an account in the state treasury to be known as the "state vehicle parking account." All parking rental income resulting from parking fees established by the department of ~~((general administration))~~ enterprise services under RCW 46.08.172 at state-owned or leased property shall be deposited in the "state vehicle parking account." Revenue deposited in the "state vehicle parking account" shall be first applied to pledged purposes. Unpledged parking revenues deposited in the "state vehicle parking account" may be used to:

(1) Pay costs incurred in the operation, maintenance, regulation, and enforcement of vehicle parking and parking facilities;

(2) Support the lease costs and investment costs of vehicle parking and parking facilities; and

(3) Support agency commute trip reduction programs under RCW 70.94.521 through 70.94.551.

**Sec. 254.** RCW 43.82.120 and 1998 c 105 s 14 are each amended to read as follows:

All rental income collected by the department of ~~((general administration))~~ enterprise services from rental of state buildings shall be deposited in the ~~((general administration))~~ enterprise services account.

**Sec. 255.** RCW 43.82.125 and 1998 c 105 s 15 are each amended to read as follows:

The ~~((general administration))~~ enterprise services account shall be used to pay all costs incurred by the department in the operation of real estate managed under the terms of this chapter. Moneys received into the ~~((general administration))~~ enterprise services account shall be used to pay rent to the owner of the space for occupancy of which the charges have been made and to pay utility and operational costs of the space utilized by the occupying agency: PROVIDED, That moneys received into the account for occupancy of space owned by the state where utilities and other operational costs are covered by appropriation to the department of ~~((general administration))~~ enterprise services shall be immediately transmitted to the general fund.

**Sec. 256.** RCW 43.99H.070 and 1995 c 215 s 6 are each amended to read as follows:

In addition to any other charges authorized by law and to assist in the reimbursement of principal and interest payments on bonds issued for the purposes of RCW 43.99H.020(15), the following revenues may be collected:

(1) The director of ~~((general administration))~~ enterprise services may assess a charge against each state board, commission, agency, office, department, activity, or other occupant of the facility or building constructed with bonds issued for the purposes of RCW 43.99H.020(15) for payment of a proportion of costs for each square foot of floor space assigned to or occupied by the entity. Payment of the amount billed to the entity for such occupancy shall be made quarterly during each fiscal year. The director of ~~((general administration))~~ enterprise services shall deposit the payment in the capitol campus reserve account.

(2) The director of ~~((general administration))~~ enterprise services may pledge a portion of the parking rental income collected by the department of ~~((general administration))~~ enterprise services from parking space developed as a part of the facility constructed with bonds issued for the purposes of RCW 43.99H.020(15). The pledged portion of this income shall be deposited in the capitol

campus reserve account. The unpledged portion of this income shall continue to be deposited in the state vehicle parking account.

(3) The state treasurer shall transfer four million dollars from the capitol building construction account to the capitol campus reserve account each fiscal year from 1990 to 1995. Beginning in fiscal year 1996, the director of ~~((general administration))~~ enterprise services, in consultation with the state finance committee, shall determine the necessary amount for the state treasurer to transfer from the capitol building construction account to the capitol campus reserve account for the purpose of repayment of the general fund of the costs of the bonds issued for the purposes of RCW 43.99H.020(15).

(4) Any remaining balance in the state building and parking bond redemption account after the final debt service payment shall be transferred to the capitol campus reserve account.

**Sec. 257.** RCW 73.24.020 and 1937 c 36 s 1 are each amended to read as follows:

The director of the department of ~~((finance, budget and business))~~ enterprise services is hereby authorized and directed to contract with Olympia Lodge No. 1, F. & A.M., a corporation for the improvement and perpetual care of the state veterans' plot in the Masonic cemetery at Olympia; such care to include the providing of proper curbs and walks, cultivating, reseeding and fertilizing grounds, repairing and resetting the bases and monuments in place on the ground, leveling grounds, and transporting and setting headstones for graves of persons hereafter buried on the plot.

**NEW SECTION. Sec. 258.** The following acts or parts of acts are each repealed:

(1) RCW 43.19.010 (Director--Authority, appointment, salary) and 1999 c 229 s 1, 1993 c 472 s 19, 1988 c 25 s 10, 1975 1st ex.s. c 167 s 1, & 1965 c 8 s 43.19.010;

(2) RCW 43.19.1923 (General administration services account--Use) and 2001 c 292 s 3, 1998 c 105 s 6, 1991 sp.s. c 16 s 921, 1987 c 504 s 17, 1975-'76 2nd ex.s. c 21 s 12, 1967 ex.s. c 104 s 5, & 1965 c 8 s 43.19.1923;

(3) RCW 43.19.1925 (Combined purchases of commonly used items-- Advance payments by state agencies--Costs of operating central stores) and 1998 c 105 s 7, 1975 c 40 s 8, 1973 c 104 s 2, & 1965 c 8 s 43.19.1925;

(4) RCW 43.19.590 (Motor vehicle transportation service--Transfer of employees--Retention of employment rights) and 1975 1st ex.s. c 167 s 8;

(5) RCW 43.19.595 (Motor vehicle transportation service--Transfer of motor vehicles, property, etc., from motor pool to department) and 2009 c 549 s 5067 & 1975 1st ex.s. c 167 s 9;

(6) RCW 43.19.615 (Motor vehicle transportation service--Deposits-- Disbursements) and 2005 c 214 s 2, 1998 c 105 s 13, & 1975 1st ex.s. c 167 s 13;

(7) RCW 43.19.675 (Energy audits of state-owned facilities required--Completion dates) and 2001 c 214 s 26, 1982 c 48 s 2, & 1980 c 172 s 4;

(8) RCW 43.19.680 (Implementation of energy conservation and maintenance procedures after walk-through survey--Investment grade audit--Reports--Contracts with energy service companies, staffing) and 2001 c 214 s 27, 1996 c 186 s 506, 1986 c 325 s 2, 1983 c 313 s 1, 1982 c 48 s 3, & 1980 c 172 s 5; and

(9) 2010 c 271 s 301.

**NEW SECTION. Sec. 259.** RCW 43.19.123 is decodified.

### PART III POWERS AND DUTIES TRANSFERRED FROM THE PUBLIC PRINTER

**Sec. 301.** RCW 1.08.039 and 1955 c 235 s 8 are each amended to read as follows:

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

The committee may enter into contracts or otherwise arrange for the publication and/or distribution, provided for in RCW 1.08.038, with or without calling for bids, by the ~~((public printer or by private printer))~~ department of enterprise services, upon specifications formulated under the authority of RCW 1.08.037, and upon such basis as the committee deems to be most expeditious and economical. Any such contract may be upon such terms as the committee deems to be most advantageous to the state and to potential purchasers of such publications. The committee shall fix terms and prices for such publications.

**Sec. 302.** RCW 28A.300.040 and 2009 c 556 s 10 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state;

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools;

(3) To prepare and have printed such forms, registers, courses of study, rules for the government of the common schools, and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents;

(4) To travel, without neglecting his or her other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, and of consulting educational service district superintendents or other school officials;

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be made available online and which shall be sold at approximate actual cost of publication and distribution per volume to public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules related to the common schools, and such other matter as the state superintendent or the state board of education shall determine ~~((Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state superintendent's account within the state printing plant revolving fund by a like amount))~~;

(6) To file all papers, reports and public documents transmitted to the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in the superintendent's office, and the superintendent's official acts, may, or upon request, shall be certified by the superintendent and attested by the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to;

(7) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report as required by the superintendent of public instruction; and it is the duty of every president, manager, or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct;

(8) To keep in the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state;

(9) To issue certificates as provided by law;

(10) To keep in the superintendent's office at the capital of the state, all books and papers pertaining to the business of the superintendent's office, and to keep and preserve in the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education;

(11) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to the

superintendent in writing by any educational service district superintendent, or that may be submitted to the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and the superintendent's decision shall be final unless set aside by a court of competent jurisdiction;

(12) To administer oaths and affirmations in the discharge of the superintendent's official duties;

(13) To deliver to his or her successor, at the expiration of the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to the superintendent's office or which may have been received by the superintendent's for the use of the superintendent's office;

(14) To administer family services and programs to promote the state's policy as provided in RCW 74.14A.025;

(15) To promote the adoption of school-based curricula and policies that provide quality, daily physical education for all students, and to encourage policies that provide all students with opportunities for physical activity outside of formal physical education classes;

(16) To perform such other duties as may be required by law.

**Sec. 303.** RCW 28B.10.029 and 2010 c 61 s 1 are each amended to read as follows:

(1)(a) An institution of higher education may exercise independently those powers otherwise granted to the director of ~~((general administration))~~ enterprise services in chapter 43.19 RCW in connection with the purchase and disposition of all material, supplies, services, and equipment needed for the support, maintenance, and use of the respective institution of higher education.

(b) Property disposition policies followed by institutions of higher education shall be consistent with policies followed by the department of ~~((general administration))~~ enterprise services.

(c) Purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937, 43.19.534, 43.19.685, 43.19.700 through 43.19.704, and 43.19.560 through 43.19.637.

(d) Purchases under chapter 39.29, 43.19, or 43.105 RCW by institutions of higher education may be made by using contracts for materials, supplies, services, or equipment negotiated or entered into by, for, or through group purchasing organizations.

(e) The community and technical colleges shall comply with RCW 43.19.450.

(f) Except for the University of Washington, institutions of higher education shall comply with RCW 43.41.310, 43.41.290, and 43.41.350 (as recodified by this act).

(g) If an institution of higher education can satisfactorily demonstrate to the director of the office of financial management that the cost of compliance is greater than the value of benefits from any of the following statutes, then it shall be exempt from them: RCW 43.19.685, 43.19.534, and 43.19.637.

(h) Any institution of higher education that chooses to exercise independent purchasing authority for a commodity or group of commodities shall notify the director of ~~((general administration))~~ enterprise services. Thereafter the director of ~~((general administration))~~ enterprise services shall not be required to provide those services for that institution for the duration of the ~~((general administration))~~ enterprise services contract term for that commodity or group of commodities.

(2) The council of presidents and the state board for community and technical colleges shall convene its correctional industries business development advisory committee, and work collaboratively with correctional industries, to:

(a) Reaffirm purchasing criteria and ensure that quality, service, and timely delivery result in the best value for expenditure of state dollars;

(b) Update the approved list of correctional industries products from which higher education shall purchase; and

(c) Develop recommendations on ways to continue to build correctional industries' business with institutions of higher education.

(3) Higher education and correctional industries shall develop a plan to build higher education business with correctional industries to increase higher education purchases of correctional industries products, based upon the criteria established in subsection (2) of this section. The plan shall include the correctional industries' production and sales goals for higher education and an approved list of products from which higher education institutions shall purchase, based on the criteria established in subsection (2) of this section. Higher education and correctional industries shall report to the legislature regarding the plan and its implementation no later than January 30, 2005.

(4) Institutions of higher education shall set as a target to contract, beginning not later than June 30, 2006, to purchase one percent of the total goods and services required by the institutions each year produced or provided in whole or in part from class II inmate work programs operated by the department of corrections. Institutions of higher education shall set as a target to contract, beginning not later than June 30, 2008, to purchase two percent of the total goods and services required by the institutions each year produced or provided in whole or in part from class II inmate work programs operated by the department of corrections.

((5) An institution of higher education may exercise independently those powers otherwise granted to the public printer in chapter 43.78 RCW in connection with the production or purchase of any printing and binding needed by the respective institution of higher education. Purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapter 39.19 RCW. Any institution of higher education that chooses to exercise independent printing production or purchasing authority shall notify the public printer. Thereafter the public printer shall not be required to provide those services for that institution.))

**Sec. 304.** RCW 40.06.030 and 2006 c 199 s 5 are each amended to read as follows:

(1) Every state agency shall promptly submit to the state library copies of published information that are state publications.

(a) For state publications available only in print format, each state agency shall deposit, at a minimum, two copies of each of its publications with the state library. For the purposes of broad public access, state agencies may deposit additional copies with the state library for distribution to additional depository libraries.

(b) For state publications available only in electronic format, each state agency shall deposit one copy of each of its publications with the state library.

(c) For state publications available in both print and electronic format, each state agency shall deposit two print copies and one electronic copy of the publication with the state library.

(2) Annually, each state agency shall provide the state library with a listing of all its publications made available to state government and the public during the preceding year, including those published in electronic form. The secretary of state shall, by rule, establish the annual date by which state agencies must provide the list of its publications to the state library.

(3) In the interest of economy and efficiency, the state librarian may specifically or by general rule exempt a given state publication or class of publications from the requirements of this section in full or in part.

((4) Upon consent of the issuing state agency, such state publications as are printed by the public printer shall be delivered directly to the center.))

**Sec. 305.** RCW 43.08.061 and 1993 c 38 s 1 are each amended to read as follows:

The (~~public printer shall print~~) department of enterprise services is responsible for the printing of all state treasury warrants for distribution as directed by the state treasurer. All warrants redeemed by the state treasurer shall be retained for a period of one year, following their redemption, after which they may be destroyed without regard to the requirements imposed for their destruction by chapter 40.14 RCW.

**NEW SECTION. Sec. 306.** The following acts or parts of acts are each repealed:

(1) RCW 43.78.010 (Appointment of public printer) and 2009 c 549 s 5146, 1981 c 338 s 6, & 1965 c 8 s 43.78.010;

(2) RCW 43.78.020 (Bond) and 2009 c 549 s 5147 & 1965 c 8 s 43.78.020;

(3) RCW 43.78.030 (Duties--Exceptions) and 2010 1st sp. s. c 37 s 927, 1994 c 82 s 1, 1993 c 379 s 104, 1988 c 102 s 1, 1987 c 72 s 1, 1982 c 164 s 2, 1971 c 81 s 114, & 1965 c 8 s 43.78.030;

(4) RCW 43.78.040 (Requisitions) and 1965 c 8 s 43.78.040;

(5) RCW 43.78.050 (Itemized statement of charges) and 1965 c 8 s 43.78.050;

(6) RCW 43.78.070 (Use of state plant--Conditions--Public printer's salary) and 2009 c 549 s 5148, 1979 c 151 s 134, & 1965 c 8 s 43.78.070;

(7) RCW 43.78.080 (Printing specifications) and 1972 ex.s. c 1 s 1, 1969 c 6 s 7, & 1965 c 8 s 43.78.080;

(8) RCW 43.78.090 (Reprinting) and 1965 c 8 s 43.78.090;

(9) RCW 43.78.100 (Stock to be furnished) and 1993 c 379 s 106 & 1965 c 8 s 43.78.100;

(10) RCW 43.78.105 (Printing for institutions of higher education-- Interlocal agreements) and 1993 c 379 s 105;

(11) RCW 43.78.110 (Securing printing from private sources-- Definitions) and 2009 c 486 s 12, 1993 c 379 s 107, 1982 c 164 s 3, 1969 c 79 s 1, & 1965 c 8 s 43.78.110;

(12) RCW 43.78.170 (Recycled copy and printing paper requirement) and 2009 c 356 s 5, 1996 c 198 s 3, & 1991 c 297 s 10;

(13) RCW 15.24.085 (Promotional printing not restricted by public printer laws) and 2002 c 313 s 121 & 1961 c 11 s 15.24.085;

(14) RCW 15.62.190 (Promotional printing and literature--Exempt from public printing requirements) and 1989 c 5 s 19;

(15) RCW 16.67.170 (Promotional printing not restricted by public printer laws) and 1969 c 133 s 16;

(16) RCW 40.04.030 (Session laws, legislative journals, supreme court and court of appeals reports--Duties of public printer, publisher) and 1995 c 24 s 1, 1971 c 42 s 2, & 1941 c 150 s 3; and

(17) RCW 40.07.050 (Prohibition of state publications not in accordance with RCW 40.07.030--Exceptions) and 1986 c 158 s 5 & 1977 ex.s. c 232 s 5.

**NEW SECTION. Sec. 307.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The public printing revolving account is created in the custody of the state treasurer. All receipts from public printing must be deposited in the account. Expenditures from the account may be used only for administrative and operating purposes related to public printing. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) On the effective date of this section, the state treasurer shall transfer any residual funds remaining in the state printing plant revolving fund to the public printing revolving account established in this section.

THIRTIETH DAY, MAY 25, 2011

**NEW SECTION. Sec. 308.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The department shall broker print management contracts for state agencies that are required to utilize print management contracts under this section.

(2) The department is authorized to broker print management contracts for other state agencies that choose to utilize these services.

(3) Except as provided under subsection (6) of this section, all state agencies with total annual average full-time equivalent staff that exceeds one thousand as determined by the office of financial management shall utilize print management services brokered by the department, as follows:

(a) Any agency with a copier and multifunctional device contract that is set to expire on or before December 31, 2011, may opt to:

- (i) Renew the copier and multifunctional device contract; or
- (ii) Enter a print management contract;

(b) Any agency with a copier and multifunctional device contract that is set to expire on or after January 1, 2012, shall begin planning for the transition to a print management contract six months prior to the expiration date of the contract. Upon expiration of the copier and multifunctional device contract, the agency shall utilize a print management contract; and

(c) Any agency with a copier and multifunctional device contract that is terminated on or after January 1, 2012, shall enter a print management contract.

(4) Until December 31, 2016, for each agency transitioning from a copier and multifunctional device contract to a print management contract, the print management contract should result in savings in comparison with the prior copier and multifunctional device contract.

(5) If an agency has more full-time equivalent employees than it had when it entered its most recently completed print management contract, the cost of a new print management contract may exceed the cost of the most recently completed print management contract.

(6) The director of financial management may exempt a state agency, or a program within a state agency, from the requirements of this section if the director deems it unfeasible or the department and agency could not reasonably reach an agreement regarding print management.

**NEW SECTION. Sec. 309.** A new section is added to chapter 43.19 RCW to read as follows:

(1) State agencies, boards, commissions, and institutions of higher education requiring the services of a print shop may use public printing services provided by the department. If a print job is put out for bid, the department must be included in the bid solicitation. All solicitations must be posted on the state's common vendor registration and bid notification system and results provided to the department. All bid specifications must encourage the use of recycled paper and biodegradable ink must be used if feasible for the print job.

(2)(a) Except as provided in (b) of this subsection, the department shall print all agency materials that contain sensitive or personally identifiable information not publicly available.

(b) If it is more economically feasible to contract with a private vendor for the printing of agency materials that contain sensitive or personally identifiable information, the department shall require the vendor to enter into a confidentiality agreement with the department to protect the information that is provided as part of the print job.

**NEW SECTION. Sec. 310.** A new section is added to chapter 43.09 RCW to read as follows:

By November 1, 2016, building on the findings of the 2011 audit, the state auditor shall conduct a comprehensive performance audit of state printing services in accordance with RCW 43.09.470.

2011 1ST SPECIAL SESSION

Following the audit in 2016, the state auditor shall conduct follow-up audits as deemed necessary to ensure effective implementation of this act.

**NEW SECTION. Sec. 311.** A new section is added to chapter 43.19 RCW to read as follows:

For every printing job and binding job ordered by a state agency, the agency shall consult with the department on how to choose more economic and efficient options to reduce costs.

**NEW SECTION. Sec. 312.** A new section is added to chapter 43.19 RCW to read as follows:

To improve the efficiency and minimize the costs of agency-based printing, the department shall establish rules and guidelines for all agencies to use in managing their printing operations, including both agency-based printing and those jobs that require the services of a print shop, as based on the successes of implementation of existing print management programs in state agencies. At a minimum, the rules and guidelines must implement managed print strategies to track, manage, and reduce agency-based printing.

**NEW SECTION. Sec. 313.** A new section is added to chapter 43.19 RCW to read as follows:

The department must determine which agencies have print shops and prepare a recommendation, including proposed legislation by November 15, 2011, to transfer print shop personnel, equipment, and activities of state agencies and institutions of higher education, as defined in RCW 28B.10.016, to the department. A transfer under this section does not imply that any print shop operations will close at the affected agencies and institutions of higher education.

**NEW SECTION. Sec. 314.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The department shall consult with the office of financial management and state agencies to more efficiently manage the use of envelopes by standardizing them to the extent feasible given the business needs of state agencies.

(2) All state agencies with total annual average full-time equivalent staff that exceeds five hundred as determined by the office of financial management shall cooperate with the department in efforts to standardize envelopes under subsection (1) of this section. In the event that an agency is updating a mailing, the agency shall transition to an envelope recommended by the department, unless the office of financial management considers the change unfeasible.

(3) State agencies with five hundred total annual average full-time equivalent staff or less, as determined by the office of financial management, are encouraged to cooperate with the office to standardize envelopes under this section.

**NEW SECTION. Sec. 315.** RCW 43.78.130, 43.78.140, 43.78.150, and 43.78.160 are each recodified as sections in chapter 43.19.

#### PART IV POWERS AND DUTIES TRANSFERRED FROM THE DEPARTMENT OF PERSONNEL

**Sec. 401.** RCW 41.06.020 and 1993 c 281 s 19 are each amended to read as follows:

Unless the context clearly indicates otherwise, the words used in this chapter have the meaning given in this section.

(1) "Agency" means an office, department, board, commission, or other separate unit or division, however designated, of the state government and all personnel thereof; it includes any unit of state government established by law, the executive officer or members of which are either elected or appointed, upon which the statutes confer

powers and impose duties in connection with operations of either a governmental or proprietary nature.

(2) "Board" means the Washington personnel resources board established under the provisions of RCW 41.06.110, except that this definition does not apply to the words "board" or "boards" when used in RCW 41.06.070.

(3) "Classified service" means all positions in the state service subject to the provisions of this chapter.

(4) "Competitive service" means all positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

(5) "Comparable worth" means the provision of similar salaries for positions that require or impose similar responsibilities, judgments, knowledge, skills, and working conditions.

(6) "Noncompetitive service" means all positions in the classified service for which a competitive examination is not required.

(7) "Department" means an agency of government that has as its governing officer a person, or combination of persons such as a commission, board, or council, by law empowered to operate the agency responsible either to (a) no other public officer or (b) the governor.

(8) "Career development" means the progressive development of employee capabilities to facilitate productivity, job satisfaction, and upward mobility through work assignments as well as education and training that are both state-sponsored and are achieved by individual employee efforts, all of which shall be consistent with the needs and obligations of the state and its agencies.

(9) "Training" means activities designed to develop job-related knowledge and skills of employees.

(10) "Director" means the human resources director (~~of personnel appointed under the provisions of RCW 41.06.130) within the office of financial management and appointed under section 430 of this act.~~

(11) "Affirmative action" means a procedure by which racial minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system.

(12) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(13) "Related boards" means the state board for community and technical colleges; and such other boards, councils, and commissions related to higher education as may be established.

**Sec. 402.** RCW 41.06.076 and 1997 c 386 s 1 are each amended to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of social and health services to the secretary; the secretary's executive assistant, if any; not to exceed six assistant secretaries, thirteen division directors, six regional directors; one confidential secretary for each of the above-named officers; not to exceed six bureau chiefs; (~~all social worker V positions~~); and all superintendents of institutions of which the average daily population equals or exceeds one hundred residents (~~PROVIDED, That each such confidential secretary must meet the minimum qualifications for the class of secretary II as determined by the Washington personnel resources board.~~

~~This section expires June 30, 2005).~~

**Sec. 403.** RCW 41.06.080 and 1970 ex.s. c 12 s 2 are each amended to read as follows:

Notwithstanding the provisions of this chapter, the (~~department of personnel~~) office of financial management and the department of

enterprise services may make (~~its~~) their human resource services available on request, on a reimbursable basis, to:

(1) Either the legislative or the judicial branch of the state government;

(2) Any county, city, town, or other municipal subdivision of the state;

(3) The institutions of higher learning;

(4) Any agency, class, or position set forth in RCW 41.06.070.

**Sec. 404.** RCW 41.06.093 and 1993 c 281 s 24 are each amended to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the Washington state patrol to confidential secretaries of agency bureau chiefs, or their functional equivalent, and a confidential secretary for the chief of staff (~~PROVIDED, That each confidential secretary must meet the minimum qualifications for the class of secretary II as determined by the Washington personnel resources board~~).

**Sec. 405.** RCW 41.06.110 and 2002 c 354 s 210 are each amended to read as follows:

(1) There is hereby created a Washington personnel resources board composed of three members appointed by the governor, subject to confirmation by the senate. The members of the personnel board serving June 30, 1993, shall be the members of the Washington personnel resources board, and they shall complete their terms as under the personnel board. Each odd-numbered year thereafter the governor shall appoint a member for a six-year term. Each member shall continue to hold office after the expiration of the member's term until a successor has been appointed. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed;

(2) Each member of the board shall be compensated in accordance with RCW 43.03.250. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

(3) At its first meeting following the appointment of all of its members, and annually thereafter, the board shall elect a chair and vice chair from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board. The director (~~of personnel~~) shall serve as secretary.

(4) The board may appoint and compensate hearing officers to hear and conduct appeals. Such compensation shall be paid on a contractual basis for each hearing, in accordance with the provisions of chapter 43.88 RCW and rules adopted pursuant thereto, as they relate to personal service contracts.

**Sec. 406.** RCW 41.06.120 and 1981 c 311 s 17 are each amended to read as follows:

(1) In the necessary conduct of its work, the board shall meet monthly unless there is no pending business requiring board action and may hold hearings, such hearings to be called by (a) the chairman of the board, or (b) a majority of the members of the board. An official notice of the calling of the hearing shall be filed with the secretary, and all members shall be notified of the hearing within a reasonable period of time prior to its convening.

(2) No release of material or statement of findings shall be made except with the approval of a majority of the board;

(3) In the conduct of hearings or investigations, a member of the board or the director (~~of personnel~~), or the hearing officer, may administer oaths.

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

**Sec. 407.** RCW 41.06.133 and 2010 c 2 s 3 and 2010 c 1 s 2 are each reenacted and amended to read as follows:

(1) The director shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(a) The reduction, dismissal, suspension, or demotion of an employee;

(b) Training and career development;

(c) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except ~~((that))~~ as follows:

(i) Entry level state park rangers shall serve a probationary period of twelve months; and

(ii) The probationary period of campus police officer appointees who are required to attend the Washington state criminal justice training commission basic law enforcement academy shall extend from the date of appointment until twelve months from the date of successful completion of the basic law enforcement academy, or twelve months from the date of appointment if academy training is not required. The director shall adopt rules to ensure that employees promoting to campus police officer who are required to attend the Washington state criminal justice training commission basic law enforcement academy shall have the trial service period extend from the date of appointment until twelve months from the date of successful completion of the basic law enforcement academy, or twelve months from the date of appointment if academy training is not required;

(d) Transfers;

(e) Promotional preferences;

(f) Sick leaves and vacations;

(g) Hours of work;

(h) Layoffs when necessary and subsequent reemployment, except for the financial basis for layoffs;

(i) The number of names to be certified for vacancies;

(j) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units. The rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located. Such adoption and revision is subject to approval by the director of financial management in accordance with chapter 43.88 RCW;

(k) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service. From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any exempt position under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation formed under chapter 67.40 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(i) The salary increase can be paid within existing resources; and

(ii) The salary increase will not adversely impact the provision of client services;

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases

were granted, the size of the increases, and the reasons for giving the increases;

(l) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;

(m) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the director, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given. However, the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service. For the purposes of this section, "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month.

(2) Rules adopted under this section by the director shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the director.

(3) Rules adopted by the director under this section may be superseded by the provisions of a collective bargaining agreement negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130. The supersession of such rules shall only affect employees in the respective collective bargaining units.

(4)(a) The director shall require that each state agency report annually the following data:

(i) The number of classified, Washington management service, and exempt employees in the agency and the change compared to the previous report;

(ii) The number of bonuses and performance-based incentives awarded to agency staff and the base wages of such employees; and

(iii) The cost of each bonus or incentive awarded.

(b) A report that compiles the data in (a) of this subsection for all agencies will be provided annually to the governor and the appropriate committees of the legislature and must be posted for the public on the ~~((department of personnel's))~~ office of financial management's agency web site.

(5) From February 15, 2010, until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**Sec. 408.** RCW 41.06.142 and 2008 c 267 s 9 are each amended to read as follows:

(1) Any department, agency, or institution of higher education may purchase services, including services that have been customarily and historically provided by employees in the classified service under this chapter, by contracting with individuals, nonprofit organizations, businesses, employee business units, or other entities if the following criteria are met:

(a) The invitation for bid or request for proposal contains measurable standards for the performance of the contract;

(b) Employees in the classified service whose positions or work would be displaced by the contract are provided an opportunity to offer alternatives to purchasing services by contract and, if these alternatives are not accepted, compete for the contract under competitive contracting procedures in subsection (4) of this section;

(c) The contract with an entity other than an employee business unit includes a provision requiring the entity to consider employment of state employees who may be displaced by the contract;

(d) The department, agency, or institution of higher education has established a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards; and

(e) The department, agency, or institution of higher education has determined that the contract results in savings or efficiency improvements. The contracting agency must consider the consequences and potential mitigation of improper or failed performance by the contractor.

(2) Any provision contrary to or in conflict with this section in any collective bargaining agreement in effect on July 1, 2005, is not effective beyond the expiration date of the agreement.

(3) Contracting for services that is expressly mandated by the legislature or was authorized by law prior to July 1, 2005, including contracts and agreements between public entities, shall not be subject to the processes set forth in subsections (1), (4), and (5) of this section.

(4) Competitive contracting shall be implemented as follows:

(a) At least ninety days prior to the date the contracting agency requests bids from private entities for a contract for services provided by classified employees, the contracting agency shall notify the classified employees whose positions or work would be displaced by the contract. The employees shall have sixty days from the date of notification to offer alternatives to purchasing services by contract, and the agency shall consider the alternatives before requesting bids.

(b) If the employees decide to compete for the contract, they shall notify the contracting agency of their decision. Employees must form one or more employee business units for the purpose of submitting a bid or bids to perform the services.

(c) The ~~((director of personnel))~~ department of enterprise services, with the advice and assistance of the ~~((department of general administration))~~ office of financial management, shall develop and make available to employee business units training in the bidding process and general bid preparation.

(d) The director of ~~((general administration))~~ enterprise services, with the advice and assistance of the ~~((department of personnel))~~ office of financial management, shall, by rule, establish procedures to ensure that bids are submitted and evaluated in a fair and objective manner and that there exists a competitive market for the service. Such rules shall include, but not be limited to: (i) Prohibitions against participation in the bid evaluation process by employees who prepared the business unit's bid or who perform any of the services to be contracted; (ii) provisions to ensure no bidder receives an advantage over other bidders and that bid requirements are applied equitably to all parties; and (iii) procedures that require the contracting agency to receive complaints regarding the bidding process and to consider them before awarding the contract. Appeal

of an agency's actions under this subsection is an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW, the administrative procedure act, with the final decision to be rendered by an administrative law judge assigned under chapter 34.12 RCW.

(e) An employee business unit's bid must include the fully allocated costs of the service, including the cost of the employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the function. An employee business unit's cost shall not include the state's indirect overhead costs unless those costs can be attributed directly to the function in question and would not exist if that function were not performed in state service.

(f) A department, agency, or institution of higher education may contract with the department of ~~((general administration))~~ enterprise services to conduct the bidding process.

(5) As used in this section:

(a) "Employee business unit" means a group of employees who perform services to be contracted under this section and who submit a bid for the performance of those services under subsection (4) of this section.

(b) "Indirect overhead costs" means the pro rata share of existing agency administrative salaries and benefits, and rent, equipment costs, utilities, and materials associated with those administrative functions.

(c) "Competitive contracting" means the process by which classified employees of a department, agency, or institution of higher education compete with businesses, individuals, nonprofit organizations, or other entities for contracts authorized by subsection (1) of this section.

(6) The ~~((requirements))~~ processes set forth in subsections (1), (4), and (5) of this section do not apply to:

(a) RCW 74.13.031(5);

(b) The acquisition of printing services by a state agency; and

(c) Contracting for services or activities by the department of enterprise services under section 104 of this act and the department may continue to contract for such services and activities after June 30, 2018.

(7) The processes set forth in subsections (1), (4), and (5) of this section do not apply to the consolidated technology services agency when contracting for services or activities as follows:

(a) Contracting for services and activities that are necessary to establish, operate, or manage the state data center, including architecture, design, engineering, installation, and operation of the facility that are approved by the technology services board created in section 715 of this act.

(b) Contracting for services and activities recommended by the chief information officer through a business plan and approved by the technology services board created in section 715 of this act.

**Sec. 409.** RCW 41.06.150 and 2002 c 371 s 906, 2002 c 354 s 203, 2002 c 354 s 202, and 2002 c 110 s 1 are each reenacted and amended to read as follows:

The director shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(1) Certification of names for vacancies;

(2) Examinations for all positions in the competitive and noncompetitive service;

(3) Appointments;

(4) ((Adoption and revision of a comprehensive classification plan, in accordance with rules adopted by the board under RCW 41.06.136, for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position and allocation and reallocation of positions within the classification plan.

(a) The director shall not adopt job classification revisions or



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

class studies unless implementation of the proposed revision or study will result in net cost savings, increased efficiencies, or improved management of personnel or services, and the proposed revision or study has been approved by the director of financial management in accordance with chapter 43.88 RCW.

(b) Reclassifications, class studies, and salary adjustments are governed by (a) of this subsection and RCW 41.06.152;

(5)) Permitting agency heads to delegate the authority to appoint, reduce, dismiss, suspend, or demote employees within their agencies if such agency heads do not have specific statutory authority to so delegate: PROVIDED, That the director may not authorize such delegation to any position lower than the head of a major subdivision of the agency;

((6)) (5) Assuring persons who are or have been employed in classified positions before July 1, 1993, will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter;

((7)) (6) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

The director shall consult with the human rights commission in the development of rules pertaining to affirmative action. ((The department of personnel shall transmit a report annually to the human rights commission which states the progress each state agency has made in meeting affirmative action goals and timetables.))

Rules adopted under this section by the director shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the director.

**Sec. 410.** RCW 41.06.152 and 2007 c 489 s 1 are each amended to read as follows:

(1) The director shall adopt only those job classification revisions, class studies, and salary adjustments under ((RCW 41.06.150(4))) section 411 of this act that:

(a) As defined by the director, are due to documented recruitment or retention difficulties, salary compression or inversion, classification plan maintenance, higher level duties and responsibilities, or inequities; and

(b) Are such that the office of financial management has reviewed the affected agency's fiscal impact statement and has concurred that the affected agency can absorb the biennialized cost of the reclassification, class study, or salary adjustment within the agency's current authorized level of funding for the current fiscal biennium and subsequent fiscal biennia.

(2) This section does not apply to the higher education hospital special pay plan or to any adjustments to the classification plan under ((RCW 41.06.150(4))) section 411 of this act that are due to emergent conditions. Emergent conditions are defined as emergency conditions requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare.

**NEW SECTION. Sec. 411.** A new section is added to chapter 41.06 RCW to read as follows:

(1) To promote the most effective use of the state's workforce and improve the effectiveness and efficiency of the delivery of services to the citizens of the state, the director shall adopt and maintain a comprehensive classification plan for all positions in the classified service. The classification plan must:

(a) Be simple and streamlined;

(b) Support state agencies in responding to changing technologies, economic and social conditions, and the needs of its citizens;

(c) Value workplace diversity;

(d) Facilitate the reorganization and decentralization of governmental services;

(e) Enhance mobility and career advancement opportunities; and

(f) Consider rates in other public employment and private employment in the state.

(2) An appointing authority and an employee organization representing classified employees of the appointing authority for collective bargaining purposes may jointly request the human resources director to initiate a classification study.

(3) For institutions of higher education and related boards, the director may adopt special salary ranges to be competitive with positions of a similar nature in the state or the locality in which the institution of higher education or related board is located.

(4) The director may undertake salary surveys of positions in other public and private employment to establish market rates. Any salary survey information collected from private employers which identifies a specific employer with salary rates which the employer pays to its employees shall not be subject to public disclosure under chapter 42.56 RCW.

**NEW SECTION. Sec. 412.** A new section is added to chapter 41.06 RCW to read as follows:

The director of financial management shall adopt and maintain a state salary schedule. Such adoption and revision is subject to approval by the director in accordance with chapter 43.88 RCW.

**Sec. 413.** RCW 41.06.167 and 2005 c 274 s 279 are each amended to read as follows:

The ((department of personnel)) human resources director shall undertake comprehensive compensation surveys for officers and entry-level officer candidates of the Washington state patrol, with such surveys to be conducted in the year prior to the convening of every other one hundred five day regular session of the state legislature. Salary and fringe benefit survey information collected from private employers which identifies a specific employer with the salary and fringe benefit rates which that employer pays to its employees shall not be subject to public disclosure under chapter 42.56 RCW.

**Sec. 414.** RCW 41.06.169 and 1985 c 461 s 3 are each amended to read as follows:

After consultation with state agency heads, employee organizations, and other interested parties, the ((state personnel)) director shall develop standardized employee performance evaluation procedures and forms which shall be used by state agencies for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual agencies may supplement the standardized evaluation process with special performance factors peculiar to specific organizational needs. Performance evaluation procedures shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling state agency and job objectives.

**Sec. 415.** RCW 41.06.170 and 2009 c 534 s 3 are each amended to read as follows:

(1) The director, in the adoption of rules governing suspensions for cause, shall not authorize an appointing authority to suspend an employee for more than fifteen calendar days as a single penalty or more than thirty calendar days in any one calendar year as an accumulation of several penalties. The director shall require that the appointing authority give written notice to the employee not later than one day after the suspension takes effect, stating the reasons for and the duration thereof.

(2) Any employee who is reduced, dismissed, suspended, or demoted, after completing his or her probationary period of service as provided by the rules of the director, or any employee who is

adversely affected by a violation of the state civil service law, chapter 41.06 RCW, or rules adopted under it, shall have the right to appeal, either individually or through his or her authorized representative, not later than thirty days after the effective date of such action (~~to the personnel appeals board through June 30, 2005, and~~) to the Washington personnel resources board (~~(after June 30, 2005)~~). The employee shall be furnished with specified charges in writing when a reduction, dismissal, suspension, or demotion action is taken. Such appeal shall be in writing. Decisions of the Washington personnel resources board on appeals filed after June 30, 2005, shall be final and not subject to further appeal.

(3) Any employee whose position has been exempted after July 1, 1993, shall have the right to appeal, either individually or through his or her authorized representative, not later than thirty days after the effective date of such action to the ~~(personnel appeals board through June 30, 2005, and to the)~~ Washington personnel resources board (~~(after June 30, 2005)~~). If the position being exempted is vacant, the exclusive bargaining unit representative may act in lieu of an employee for the purposes of appeal.

(4) An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to the ~~(personnel appeals board through December 31, 2005, and to the)~~ Washington personnel resources board (~~(after December 31, 2005)~~). Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

(5) Subsections (1) and (2) of this section do not apply to any employee who is subject to the provisions of a collective bargaining agreement negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130.

**Sec. 416.** RCW 41.06.220 and 1961 c 1 s 22 are each amended to read as follows:

((1) An employee who is terminated from state service may request the board to place his name on an appropriate reemployment list and the board shall grant this request where the circumstances are found to warrant reemployment.

(2)) Any employee, when fully reinstated after appeal, shall be guaranteed all employee rights and benefits, including back pay, sick leave, vacation accrual, retirement and OASDI credits.

**Sec. 417.** RCW 41.06.260 and 1961 c 1 s 26 are each amended to read as follows:

If any part of this chapter shall be found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict and with respect to the agencies directly affected, and such findings or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The ~~(board)~~ office of financial management and the department of enterprise services, as appropriate, shall make such rules and regulations as may be necessary to meet federal requirements which are a condition precedent to the receipt of federal funds by the state.

**Sec. 418.** RCW 41.06.270 and 2002 c 354 s 217 are each amended to read as follows:

A disbursing officer shall not pay any employee holding a position covered by this chapter unless the employment is in accordance with this chapter or the rules, regulations and orders issued hereunder. The directors of ~~(personnel)~~ enterprise services and financial management shall jointly establish procedures for the certification of payrolls.

**Sec. 419.** RCW 41.06.280 and 1993 c 379 s 309 are each amended to read as follows:

There is hereby created a fund within the state treasury, designated as the "~~(department of)~~ personnel service fund," to be used by the ~~(board)~~ office of financial management and the

department of enterprise services as a revolving fund for the payment of salaries, wages, and operations required for the administration of the provisions of this chapter, applicable provisions of chapter 41.04 RCW, and chapter 41.60 RCW. An amount not to exceed one and one-half percent of the ~~(approved allotments of)~~ salaries and wages for all positions in the classified service in each of the agencies subject to this chapter, except the institutions of higher education, shall be charged to the operations appropriations of each agency and credited to the ~~(department of)~~ personnel service fund as the allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, the amount shall be charged against the allotments pro rata, at a rate to be fixed by the director from time to time which, together with income derived from services rendered under RCW 41.06.080, will provide the ~~(department)~~ office of financial management and the department of enterprise services with funds to meet its anticipated expenditures during the allotment period, including the training requirements in RCW 41.06.50041.06.530.

The director ~~(of personnel)~~ shall fix the terms and charges for services rendered by the department of ~~(personnel)~~ enterprise services and the office of financial management pursuant to RCW 41.06.080, which amounts shall be credited to the ~~(department of)~~ personnel service fund and charged against the proper fund or appropriation of the recipient of such services on a ~~(quarterly)~~ monthly basis. Payment for services so rendered under RCW 41.06.080 shall be made on a ~~(quarterly)~~ monthly basis to the state treasurer and deposited ~~(by him)~~ in the ~~(department of)~~ personnel service fund.

Moneys from the ~~(department of)~~ personnel service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the ~~(board)~~ office of financial management and the department of enterprise services.

**Sec. 420.** RCW 41.06.285 and 1998 c 245 s 41 are each amended to read as follows:

(1) There is hereby created a fund within the state treasury, designated as the "higher education personnel service fund," to be used by the ~~(board)~~ office of financial management as a revolving fund for the payment of salaries, wages, and operations required for the administration of ~~(institutions of higher education and related boards, the budget for which shall be subject to review and approval and appropriation by the legislature)~~ the provisions of chapter 41.06 RCW and applicable provisions of chapters 41.04 and 41.60 RCW. Subject to the requirements of subsection (2) of this section, an amount not to exceed one-half of one percent of the salaries and wages for all positions in the classified service shall be contributed from the operations appropriations of each institution and the state board for community and technical colleges and credited to the higher education personnel service fund as such allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, such amount shall be charged against the allotments pro rata, at a rate to be fixed by the director of financial management from time to time, which will provide the ~~(board)~~ office of financial management with funds to meet its anticipated expenditures during the allotment period.

(2) If employees of institutions of higher education cease to be classified under this chapter pursuant to an agreement authorized by RCW 41.56.201, each institution of higher education and the state board for community and technical colleges shall continue, for six months after the effective date of the agreement, to make contributions to the higher education personnel service fund based on employee salaries and wages that includes the employees under the agreement. At the expiration of the six-month period, the director of financial management shall make across-the-board reductions in allotments of the higher education personnel service fund for the remainder of the biennium so that the charge to the institutions of higher education and state board for community and

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

technical colleges based on the salaries and wages of the remaining employees of institutions of higher education and related boards classified under this chapter does not increase during the biennium, unless an increase is authorized by the legislature.

(3) Moneys from the higher education personnel service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the ~~((board))~~ office of financial management.

**Sec. 421.** RCW 41.06.350 and 2002 c 354 s 218 are each amended to read as follows:

The director is authorized to receive federal funds now available or hereafter made available for the assistance and improvement of public personnel administration, which may be expended in addition to the ~~((department of))~~ personnel service fund established by RCW 41.06.280.

**Sec. 422.** RCW 41.06.395 and 2007 c 76 s 1 are each amended to read as follows:

The director shall adopt rules establishing guidelines for policies, procedures, and mandatory training programs on sexual harassment for state employees to be adopted by state agencies ~~((and establishing))~~. The department of enterprise services shall establish reporting requirements for state agencies on compliance with RCW 43.01.135.

**Sec. 423.** RCW 41.06.400 and 2002 c 354 s 219 are each amended to read as follows:

(1) In addition to other powers and duties specified in this chapter, the ~~((director))~~ department of enterprise services in consultation with the office of financial management shall ~~((:))~~:

~~((a))~~ By rule, prescribe the purpose and minimum standards for training and career development programs and, in so doing, regularly consult with and consider the needs of individual agencies and employees ~~((:~~

~~((2))~~ In addition to other powers and duties specified in this chapter, the director shall:

~~((a))~~ Provide for the evaluation of training and career development programs and plans of agencies. The director shall report the results of such evaluations to the agency which is the subject of the evaluation ~~((:))~~

(b) Provide training and career development programs which may be conducted more efficiently and economically on an interagency basis;

(c) Promote interagency sharing of resources for training and career development;

(d) Monitor and review the impact of training and career development programs to ensure that the responsibilities of the state to provide equal employment opportunities are diligently carried out.

~~((3))~~ (2) At an agency's request, the ((director)) department of enterprise services may provide training and career development programs for an agency's internal use which may be conducted more efficiently and economically by the department of ((personnel)) enterprise services.

**Sec. 424.** RCW 41.06.410 and 2002 c 354 s 220 are each amended to read as follows:

Each agency subject to the provisions of this chapter shall:

(1) Prepare an employee training and career development plan which shall at least meet minimum standards established by the ~~((director. A copy of such plan shall be submitted to the director for purposes of administering the provisions of RCW 41.06.400(2)))~~ department of enterprise services;

(2) Provide for training and career development for its employees in accordance with the agency plan;

(3) ~~((Report on its training and career development program operations and costs to the director in accordance with reporting procedures adopted by the director;~~

(4)) Budget for training and career development in accordance with procedures of the office of financial management.

**Sec. 425.** RCW 41.06.420 and 1980 c 118 s 6 are each amended to read as follows:

(1) The ~~((board))~~ office of financial management, by rule, shall prescribe the conditions under which an employee appointed to a supervisory or management position after June 12, 1980, shall be required to successfully complete an entry-level management training course as approved by the director. Such training shall not be required of any employee who has completed a management training course prior to the employee's appointment which is, in the judgment of the director, at least equivalent to the entry-level course required by this section.

(2) The ~~((board))~~ office of financial management, by rule, shall establish procedures for the suspension of the entry-level training requirement in cases where the ability of an agency to perform its responsibilities is adversely affected, or for the waiver of this requirement in cases where a person has demonstrated experience as a substitute for training.

(3) Agencies subject to the provisions of this chapter, in accordance with rules prescribed by the ~~((board))~~ office of financial management, shall designate individual positions, or groups of positions, as being "supervisory" or "management" positions. Such designations shall be subject to review by the director ~~((as part of the director's evaluation of training and career development programs prescribed by RCW 41.06.400(2)))~~.

**Sec. 426.** RCW 41.06.476 and 2001 c 296 s 6 are each amended to read as follows:

(1) The ~~((board))~~ office of financial management shall amend any existing rules established under RCW 41.06.475 and adopt rules developed in cooperation and agreement with the department of social and health services to implement the provisions of chapter 296, Laws of 2001.

(2) The legislature's delegation of authority to the agency under chapter 296, Laws of 2001 is strictly limited to:

(a) The minimum delegation necessary to administer the clear and unambiguous directives of chapter 296, Laws of 2001; and

(b) The administration of circumstances and behaviors foreseeable at the time of enactment.

**Sec. 427.** RCW 41.06.490 and 2002 c 354 s 223 are each amended to read as follows:

~~((4))~~ In addition to the rules adopted under RCW 41.06.150, the director shall adopt rules establishing a state employee return-to-work program. The program shall, at a minimum:

~~((a))~~ (1) Direct each agency to adopt a return-to-work policy. The program shall allow each agency program to take into consideration the special nature of employment in the agency;

~~((b))~~ (2) Provide for eligibility in the return-to-work program, for a minimum of two years from the date the temporary disability commenced, for any permanent employee who is receiving compensation under RCW 51.32.090 and who is, by reason of his or her temporary disability, unable to return to his or her previous work, but who is physically capable of carrying out work of a lighter or modified nature;

~~((c))~~ Allow opportunity for return-to-work statewide when appropriate job classifications are not available in the agency that is the appointing authority at the time of injury;

(d)) (3) Require each agency to name an agency representative responsible for coordinating the return-to-work program of the agency;

~~((e))~~ (4) Provide that applicants receiving appointments for classified service receive an explanation of the return-to-work policy;

~~((#))~~ (5) Require training of supervisors on implementation of the return-to-work policy, including but not limited to assessment of the appropriateness of the return-to-work job for the employee; and  
~~((#))~~ (6) Coordinate participation of applicable employee assistance programs, as appropriate.

((2) The agency full-time equivalents necessary to implement the return-to-work program established under this section shall be used only for the purposes of the return-to-work program and the net increase in full-time equivalents shall be temporary.)

**Sec. 428.** RCW 41.06.510 and 1993 c 281 s 10 are each amended to read as follows:

Each institution of higher education and each related board shall designate an officer who shall perform duties as personnel officer. The personnel officer at each institution or related board shall direct, supervise, and manage administrative and technical personnel activities for the classified service at the institution or related board consistent with policies established by the institution or related board and in accordance with the provisions of this chapter and the rules adopted under this chapter. Institutions may undertake jointly with one or more other institutions to appoint a person qualified to perform the duties of personnel officer, provide staff and financial support and may engage consultants to assist in the performance of specific projects. The services of the department of ~~((personnel))~~ enterprise services and the office of financial management may also be used by the institutions or related boards pursuant to RCW 41.06.080.

The state board for community and technical colleges shall have general supervision and control over activities undertaken by the various community colleges pursuant to this section.

**Sec. 429.** RCW 41.06.530 and 1993 c 281 s 12 are each amended to read as follows:

(1) The legislature recognizes that:

(a) The labor market and the state government workforce are diverse in terms of gender, race, ethnicity, age, and the presence of disabilities.

(b) The state's personnel resource and management practices must be responsive to the diverse nature of its workforce composition.

(c) Managers in all agencies play a key role in the implementation of all critical personnel policies.

It is therefore the policy of the state to create an organizational culture in state government that respects and values individual differences and encourages the productive potential of every employee.

(2) To implement this policy ~~((, the department shall))~~:

(a) The office of financial management shall, in consultation with agencies, employee organizations, employees, institutions of higher education, and related boards, review civil service rules and related policies to ensure that they support the state's policy of valuing and managing diversity in the workplace; and

(b) (In consultation with agencies, employee organizations, and employees, institutions of higher education, and related boards, develop model policies, procedures, and technical information to be made available to such entities for the support of workplace diversity programs, including, but not limited to:

(i) Voluntary mentorship programs;

(ii) Alternative testing practices for persons of disability where deemed appropriate;

(iii) Career counseling;

(iv) Training opportunities, including management and employee awareness and skills training, English as a second language, and individual tutoring;

(v) Recruitment strategies;

(vi) Management performance appraisal techniques that focus on valuing and managing diversity in the workplace; and

(vii) Alternative work arrangements;

(c)) The department of enterprise services, in consultation with agencies, employee organizations, and employees, institutions of higher education, and related boards, develop training programs for all managers to enhance their ability to implement diversity policies and to provide a thorough grounding in all aspects of the state civil service law and merit system rules, and how the proper implementation and application thereof can facilitate and further the mission of the agency.

(3) The department of enterprise services and the office of financial management shall coordinate implementation of this section with the ~~((office of financial management and))~~ institutions of higher education and related boards to reduce duplication of effort.

**NEW SECTION. Sec. 430.** A new section is added to chapter 43.41 RCW to read as follows:

(1) The office of financial management shall direct and supervise the personnel policy and application of the civil service laws, chapter 41.06 RCW.

(2) The human resources director is created in the office of financial management. The human resources director shall be appointed by the governor, and shall serve at the pleasure of the governor. The director shall receive a salary in an amount fixed by the governor.

(3) The human resources director has the authority and shall perform the functions as prescribed in chapter 41.06 RCW, or as otherwise prescribed by law.

(4) The human resources director may delegate to any agency the authority to perform administrative and technical personnel activities if the agency requests such authority and the human resources director is satisfied that the agency has the personnel management capabilities to effectively perform the delegated activities. The human resources director shall prescribe standards and guidelines for the performance of delegated activities. If the human resources director determines that an agency is not performing delegated activities within the prescribed standards and guidelines, the director shall withdraw the authority from the agency to perform such activities.

**Sec. 431.** RCW 34.05.030 and 2006 c 300 s 4 are each amended to read as follows:

(1) This chapter shall not apply to:

(a) The state militia, or

(b) The board of clemency and pardons, or

(c) The department of corrections or the indeterminate sentencing review board with respect to persons who are in their custody or are subject to the jurisdiction of those agencies.

(2) The provisions of RCW 34.05.410 through 34.05.598 shall not apply:

(a) To adjudicative proceedings of the board of industrial insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

(b) Except for actions pursuant to chapter 46.29 RCW, to the denial, suspension, or revocation of a driver's license by the department of licensing;

(c) To the department of labor and industries where another statute expressly provides for review of adjudicative proceedings of a department action, order, decision, or award before the board of industrial insurance appeals;

(d) To actions of the Washington personnel resources board ~~((or the director of personnel))~~, the human resources director, or the office of financial management and the department of enterprise services when carrying out their duties under chapter 41.06 RCW;

(e) To adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261; or

(f) To the extent they are inconsistent with any provisions of chapter 43.43 RCW.

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(3) Unless a party makes an election for a formal hearing pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not apply to a review hearing conducted by the board of tax appeals.

(4) The rule-making provisions of this chapter do not apply to:

(a) Reimbursement unit values, fee schedules, arithmetic conversion factors, and similar arithmetic factors used to determine payment rates that apply to goods and services purchased under contract for clients eligible under chapter 74.09 RCW; and

(b) Adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261.

(5) All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act.

**Sec. 432.** RCW 41.04.340 and 2002 c 354 s 227 are each amended to read as follows:

(1) An attendance incentive program is established for all eligible employees. As used in this section the term "eligible employee" means any employee of the state, other than eligible employees of the community and technical colleges and the state board for community and technical colleges identified in RCW 28B.50.553, and teaching and research faculty at the state and regional universities and The Evergreen State College, entitled to accumulate sick leave and for whom accurate sick leave records have been maintained. No employee may receive compensation under this section for any portion of sick leave accumulated at a rate in excess of one day per month. The state and regional universities and The Evergreen State College shall maintain complete and accurate sick leave records for all teaching and research faculty.

(2) In January of the year following any year in which a minimum of sixty days of sick leave is accrued, and each January thereafter, any eligible employee may receive remuneration for unused sick leave accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued sick leave in excess of sixty days. Sick leave for which compensation has been received shall be deducted from accrued sick leave at the rate of four days for every one day's monetary compensation.

(3) At the time of separation from state service due to retirement or death, an eligible employee or the employee's estate may elect to receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days of accrued sick leave.

(4) Remuneration or benefits received under this section shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state.

(5) Except as provided in subsections (7) through (9) of this section for employees not covered by chapter 41.06 RCW, this section shall be administered, and rules shall be adopted to carry out its purposes, by the human resources director (~~(of personnel)~~) for persons subject to chapter 41.06 RCW: PROVIDED, That determination of classes of eligible employees shall be subject to approval by the office of financial management.

(6) Should the legislature revoke any remuneration or benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right.

(7) In lieu of remuneration for unused sick leave at retirement as provided in subsection (3) of this section, an agency head or designee may with equivalent funds, provide eligible employees with a benefit plan that provides for reimbursement for medical expenses. This plan shall be implemented only after consultation with affected groups of employees. For eligible employees covered by chapter 41.06 RCW, procedures for the implementation of these plans shall be adopted by the human resources director (~~(of personnel)~~). For eligible employees exempt from chapter 41.06

RCW, and classified employees who have opted out of coverage of chapter 41.06 RCW as provided in RCW 41.56.201, implementation procedures shall be adopted by an agency head having jurisdiction over the employees.

(8) Implementing procedures adopted by the human resources director (~~(of personnel)~~) or agency heads shall require that each medical expense plan authorized by subsection (7) of this section apply to all eligible employees in any one of the following groups: (a) Employees in an agency; (b) employees in a major organizational subdivision of an agency; (c) employees at a major operating location of an agency; (d) exempt employees under the jurisdiction of an elected or appointed Washington state executive; (e) employees of the Washington state senate; (f) employees of the Washington state house of representatives; (g) classified employees in a bargaining unit established by the director of personnel; or (h) other group of employees defined by an agency head that is not designed to provide an individual-employee choice regarding participation in a medical expense plan. However, medical expense plans for eligible employees in any of the groups under (a) through (h) of this subsection who are covered by a collective bargaining agreement shall be implemented only by written agreement with the bargaining unit's exclusive representative and a separate medical expense plan may be provided for unrepresented employees.

(9) Medical expense plans authorized by subsection (7) of this section must require as a condition of participation in the plan that employees in the group affected by the plan sign an agreement with the employer. The agreement must include a provision to hold the employer harmless should the United States government find that the employer or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the employer not withholding or deducting a tax, assessment, or other payment on the funds as required by federal law. The agreement must also include a provision that requires an eligible employee to forfeit remuneration under subsection (3) of this section if the employee belongs to a group that has been designated to participate in the medical expense plan permitted under this section and the employee refuses to execute the required agreement.

**Sec. 433.** RCW 41.04.385 and 2006 c 265 s 201 are each amended to read as follows:

The legislature finds that (1) demographic, economic, and social trends underlie a critical and increasing demand for child care in the state of Washington; (2) working parents and their children benefit when the employees' child care needs have been resolved; (3) the state of Washington should serve as a model employer by creating a supportive atmosphere, to the extent feasible, in which its employees may meet their child care needs; and (4) the state of Washington should encourage the development of partnerships between state agencies, state employees, state employee labor organizations, and private employers to expand the availability of affordable quality child care. The legislature finds further that resolving employee child care concerns not only benefits the employees and their children, but may benefit the employer by reducing absenteeism, increasing employee productivity, improving morale, and enhancing the employer's position in recruiting and retaining employees. Therefore, the legislature declares that it is the policy of the state of Washington to assist state employees by creating a supportive atmosphere in which they may meet their child care needs. Policies and procedures for state agencies to address employee child care needs will be the responsibility of the director of (~~personnel~~) enterprise services, in consultation with the director of the department of early learning and state employee representatives.

**Sec. 434.** RCW 41.04.395 and 1994 sp.s. c 9 s 801 are each amended to read as follows:

(1) The disability accommodation revolving fund is created in the custody of the state treasurer. Disbursements from the fund shall be on authorization of the director of ~~((the department of personnel))~~ financial management or the director's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. The fund shall be used exclusively by state agencies to accommodate the unanticipated job site or equipment needs of persons of disability in state employ.

(2) The director of ~~((the department of personnel))~~ financial management or the director's designee shall consult with the governor's committee on disability issues and employment regarding requests for disbursements from the disability accommodation revolving fund. The department shall establish application procedures, adopt criteria, and provide technical assistance to users of the fund.

(3) Agencies that receive moneys from the disability accommodation revolving fund shall return to the fund the amount received from the fund by no later than the end of the first month of the following fiscal biennium.

**Sec. 435.** RCW 41.04.665 and 2010 1st sp.s. c 32 s 10 and 2010 c 168 s 1 are each reenacted and amended to read as follows:

(1) An agency head may permit an employee to receive leave under this section if:

(a)(i) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(ii) The employee has been called to service in the uniformed services;

(iii) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services;

(iv) The employee is a victim of domestic violence, sexual assault, or stalking; or

(v) During the 2009-2011 fiscal biennium only, the employee is eligible to use leave in lieu of temporary layoff under section 3(5), chapter 32, Laws of 2010 1st sp. sess.;

(b) The illness, injury, impairment, condition, call to service, emergency volunteer service, or consequence of domestic violence, sexual assault, temporary layoff under section 3(5), chapter 32, Laws of 2010 1st sp. sess., or stalking has caused, or is likely to cause, the employee to:

(i) Go on leave without pay status; or

(ii) Terminate state employment;

(c) The employee's absence and the use of shared leave are justified;

(d) The employee has depleted or will shortly deplete his or her:

(i) Annual leave and sick leave reserves if he or she qualifies under (a)(i) of this subsection;

(ii) Annual leave and paid military leave allowed under RCW 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

(iii) Annual leave if he or she qualifies under (a)(iii), (iv), or (v) of this subsection;

(e) The employee has abided by agency rules regarding:

(i) Sick leave use if he or she qualifies under (a)(i) or (iv) of this subsection; or

(ii) Military leave if he or she qualifies under (a)(ii) of this subsection; and

(f) The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if he or she qualifies under (a)(i) of this subsection.

(2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an employee shall not receive a total of more than five hundred twenty-two days of leave, except that, a supervisor may authorize leave in excess of five hundred twenty-two days in extraordinary circumstances for an employee qualifying for the shared leave program because he or she is suffering from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature. Shared leave received under the uniformed service shared leave pool in RCW 41.04.685 is not included in this total.

(3) An employee may transfer annual leave, sick leave, and his or her personal holiday, as follows:

(a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days. For purposes of this subsection (3)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of one hundred seventy-six hours of sick leave after the transfer.

(c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW 1.16.050, or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW 1.16.050.

(4) An employee of an institution of higher education under RCW 28B.10.016, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than twenty-two days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer that would result in his or her sick leave account going below twenty-two days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1) with compensation for illness, injury, and emergencies.

(5) Transfers of leave made by an agency head under subsections (3) and (4) of this section shall not exceed the requested amount.

(6) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency.

(7) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

transferred shall be based upon the leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

(8) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(9) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred or for any other qualifying condition. Before the agency head makes a determination to return unused leave in connection with an illness or injury, or any other qualifying condition, he or she must receive from the affected employee a statement from the employee's doctor verifying that the illness or injury is resolved. To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

(10) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used.

(11) The human resources director (~~(of personnel)~~) may adopt rules as necessary to implement subsection (2) (~~((a) through (e))~~) of this section.

**Sec. 436.** RCW 41.04.670 and 1993 c 281 s 18 are each amended to read as follows:

The (~~Washington personnel resources board~~) office of financial management and other personnel authorities shall each adopt rules applicable to employees under their respective jurisdictions: (1) Establishing appropriate parameters for the program which are consistent with the provisions of RCW 41.04.650 through 41.04.665; (2) providing for equivalent treatment of employees between their respective jurisdictions and allowing transfers of leave in accordance with RCW 41.04.665(5); (3) establishing procedures to ensure that the program does not significantly increase the cost of providing leave; and (4) providing for the administration of the program and providing for maintenance and collection of sufficient information on the program to allow a thorough legislative review.

**Sec. 437.** RCW 41.04.680 and 2006 c 356 s 1 are each amended to read as follows:

The (~~department of personnel~~) office of financial management and other personnel authorities shall adopt rules or policies governing the accumulation and use of sick leave for state agency and department employees, expressly for the establishment of a plan allowing participating employees to pool sick leave and allowing any sick leave thus pooled to be used by any participating employee who has used all of the sick leave, annual leave, and compensatory leave that has been personally accrued by him or her. Each

department or agency of the state may allow employees to participate in a sick leave pool established by the (~~department of personnel~~) office of financial management and other personnel authorities.

(1) For purposes of calculating maximum sick leave that may be donated or received by any one employee, pooled sick leave:

(a) Is counted and converted in the same manner as sick leave under the Washington state leave sharing program as provided in this chapter; and

(b) Does not create a right to sick leave in addition to the amount that may be donated or received under the Washington state leave sharing program as provided in this chapter.

(2) The (~~department~~) office of financial management and other personnel authorities, except the personnel authorities for higher education institutions, shall adopt rules which provide:

(a) That employees are eligible to participate in the sick leave pool after one year of employment with the state or agency of the state if the employee has accrued a minimum amount of unused sick leave, to be established by rule;

(b) That participation in the sick leave pool shall, at all times, be voluntary on the part of the employees;

(c) That any sick leave pooled shall be removed from the personally accumulated sick leave balance of the employee contributing the leave;

(d) That any sick leave in the pool that is used by a participating employee may be used only for the employee's personal illness, accident, or injury;

(e) That a participating employee is not eligible to use sick leave accumulated in the pool until all of his or her personally accrued sick, annual, and compensatory leave has been used;

(f) A maximum number of days of sick leave in the pool that any one employee may use;

(g) That a participating employee who uses sick leave from the pool is not required to recontribute such sick leave to the pool, except as otherwise provided in this section;

(h) That an employee who cancels his or her membership in the sick leave pool is not eligible to withdraw the days of sick leave contributed by that employee to the pool;

(i) That an employee who transfers from one position in state government to another position in state government may transfer from one pool to another if the eligibility criteria of the pools are comparable and the administrators of the pools have agreed on a formula for transfer of credits;

(j) That alleged abuse of the use of the sick leave pool shall be investigated, and, on a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn from the sick leave pool and shall be subject to such other disciplinary action as is determined by the agency head;

(k) That sick leave credits may be drawn from the sick leave pool by a part-time employee on a pro rata basis; and

(l) That each department or agency shall maintain accurate and reliable records showing the amount of sick leave which has been accumulated and is unused by employees, in accordance with guidelines established by the department of personnel.

(3) Personnel authorities for higher education institutions shall adopt policies consistent with the needs of the employees under their respective jurisdictions.

**Sec. 438.** RCW 41.04.685 and 2007 c 25 s 1 are each amended to read as follows:

(1) The uniformed service shared leave pool is created to allow employees to donate leave to be used as shared leave for any employee who has been called to service in the uniformed services and who meets the requirements of RCW 41.04.665. Participation in the pool shall, at all times, be voluntary on the part of the employee. The military department, in consultation with the

~~((department of personnel and the))~~ office of financial management, shall administer the uniformed service shared leave pool.

(2) Employees as defined in subsection (10) of this section who are eligible to donate leave under RCW 41.04.665 may donate leave to the uniformed service shared leave pool.

(3) An employee as defined in subsection (10) of this section who has been called to service in the uniformed services and is eligible for shared leave under RCW 41.04.665 may request shared leave from the uniformed service shared leave pool.

(4) It shall be the responsibility of the employee who has been called to service to provide an earnings statement verifying military salary, orders of service, and notification of a change in orders of service or military salary.

(5) Shared leave under this section may not be granted unless the pool has a sufficient balance to fund the requested shared leave for the expected term of service.

(6) Shared leave paid under this section, in combination with military salary, shall not exceed the level of the employee's state monthly salary.

(7) Any leave donated shall be removed from the personally accumulated leave balance of the employee donating the leave.

(8) An employee who receives shared leave from the pool is not required to recontribute such leave to the pool, except as otherwise provided in this section.

(9) Leave that may be donated or received by any one employee shall be calculated as in RCW 41.04.665.

(10) As used in this section:

(a) "Employee" has the meaning provided in RCW 41.04.655, except that "employee" as used in this section does not include employees of school districts and educational service districts.

(b) "Service in the uniformed services" has the meaning provided in RCW 41.04.655.

(c) "Military salary" includes base, specialty, and other pay, but does not include allowances such as the basic allowance for housing.

(d) "Monthly salary" includes monthly salary and special pay and shift differential, or the monthly equivalent for hourly employees. "Monthly salary" does not include:

- (i) Overtime pay;
- (ii) Call back pay;
- (iii) Standby pay; or
- (iv) Performance bonuses.

(11) The ~~((department of personnel))~~ office of financial management, in consultation with the military department ~~((and the office of financial management))~~, shall adopt rules and policies governing the donation and use of shared leave from the uniformed service shared leave pool, including definitions of pay and allowances and guidelines for agencies to use in recordkeeping concerning shared leave.

(12) Agencies shall investigate any alleged abuse of the uniformed service shared leave pool and on a finding of wrongdoing, the employee may be required to repay all of the shared leave received from the uniformed service shared leave pool.

(13) Higher education institutions shall adopt policies consistent with the needs of the employees under their respective jurisdictions.

**Sec. 439.** RCW 41.04.720 and 1990 c 60 s 303 are each amended to read as follows:

The director of ~~((human resources))~~ enterprise services shall:

(1) Administer the state employee assistance program to assist employees who have personal problems that adversely affect their job performance or have the potential of doing so;

(2) Develop policies, procedures, and activities for the program;

(3) Encourage and promote the voluntary use of the employee assistance program by increasing employee awareness and disseminating educational materials;

(4) Provide technical assistance and training to agencies on how to use the employee assistance program;

(5) Assist and encourage supervisors to identify and refer employees with problems that impair their performance by incorporating proper use of the program in management training, management performance criteria, ongoing communication with agencies, and other appropriate means;

(6) Offer substance abuse prevention and awareness activities to be provided through the employee assistance program and the state employee wellness program;

(7) Monitor and evaluate the effectiveness of the program, including the collection, analysis, and publication of relevant statistical information; and

(8) Consult with state agencies, institutions of higher education, and employee organizations in carrying out the purposes of RCW 41.04.700 through 41.04.730.

**Sec. 440.** RCW 41.04.770 and 1997 c 287 s 4 are each amended to read as follows:

The department of social and health services and the department of ~~((personnel))~~ enterprise services shall, after consultation with supported employment provider associations and other interested parties, encourage, educate, and assist state agencies in implementing supported employment programs. The department of ~~((personnel))~~ enterprise services shall provide human resources technical assistance to agencies implementing supported employment programs. ~~((The department of personnel shall make available, upon request of the legislature, an annual report that evaluates the overall progress of supported employment in state government.))~~

**Sec. 441.** RCW 41.07.020 and 1979 c 151 s 62 are each amended to read as follows:

The department of ~~((personnel))~~ enterprise services is authorized to administer, maintain, and operate the central personnel-payroll system and to provide its services for any state agency designated jointly by the director of the department of ~~((personnel))~~ enterprise services and the director of financial management.

The system shall be operated through state data processing centers. State agencies shall convert personnel and payroll processing to the central personnel-payroll system as soon as administratively and technically feasible as determined by the office of financial management and the department of ~~((personnel))~~ enterprise services. It is the intent of the legislature to provide, through the central personnel-payroll system, for uniform reporting to the office of financial management and to the legislature regarding salaries and related costs, and to reduce present costs of manual procedures in personnel and payroll record keeping and reporting.

**Sec. 442.** RCW 41.07.030 and 1975 1st ex.s. c 239 s 3 are each amended to read as follows:

The costs of administering, maintaining, and operating the central personnel-payroll system shall be distributed to the using state agencies. In order to insure proper and equitable distribution of costs the department of ~~((personnel))~~ enterprise services shall utilize cost accounting procedures to identify all costs incurred in the administration, maintenance, and operation of the central personnel-payroll system. In order to facilitate proper and equitable distribution of costs to the using state agencies the department of ~~((personnel))~~ enterprise services is authorized to utilize the data processing revolving fund created by RCW 43.105.080 (as recodified by this act) and the ~~((department of))~~ personnel service fund created by RCW 41.06.280.

**Sec. 443.** RCW 41.60.015 and 2000 c 139 s 1 are each amended to read as follows:

(1) There is hereby created the productivity board, which may also be known as the employee involvement and recognition board.



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

The board shall administer the employee suggestion program and the teamwork incentive program under this chapter.

(2) The board shall be composed of:

(a) The secretary of state who shall act as chairperson;

(b) (The director of personnel appointed under the provisions of RCW 41.06.130 or the director's designee;

(c)) The director of financial management or the director's designee;

~~((d))~~ (c) The director of ~~((general administration))~~ enterprise services or the director's designee;

~~((e))~~ (d) Three persons with experience in administering incentives such as those used by industry, with the governor, lieutenant governor, and speaker of the house of representatives each appointing one person. The governor's appointee shall be a representative of an employee organization certified as an exclusive representative of at least one bargaining unit of classified employees;

~~((f))~~ (e) Two persons representing state agencies and institutions with employees subject to chapter 41.06 RCW, and one person representing those subject to chapter 28B.16 RCW, both appointed by the governor; and

~~((g))~~ (f) In addition, the governor and board chairperson may jointly appoint persons to the board on an ad hoc basis. Ad hoc members shall serve in an advisory capacity and shall not have the right to vote.

Members under subsection (2)~~((e))~~(d) and ~~((f))~~ (e) of this section shall be appointed to serve three-year terms.

Members of the board appointed pursuant to subsection (2)~~((e))~~(d) of this section may be compensated in accordance with RCW 43.03.240. Any board member who is not a state employee may be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

**Sec. 444.** RCW 41.80.005 and 2002 c 354 s 321 are each amended to read as follows:

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

(1) "Agency" means any agency as defined in RCW 41.06.020 and covered by chapter 41.06 RCW.

(2) "Collective bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times and to bargain in good faith in an effort to reach agreement with respect to the subjects of bargaining specified under RCW 41.80.020. The obligation to bargain does not compel either party to agree to a proposal or to make a concession, except as otherwise provided in this chapter.

(3) "Commission" means the public employment relations commission.

(4) "Confidential employee" means an employee who, in the regular course of his or her duties, assists in a confidential capacity persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies, or who assists or aids a manager. "Confidential employee" also includes employees who assist assistant attorneys general who advise and represent managers or confidential employees in personnel or labor relations matters, or who advise or represent the state in tort actions.

(5) "Director" means the director of the public employment relations commission.

(6) "Employee" means any employee, including employees whose work has ceased in connection with the pursuit of lawful activities protected by this chapter, covered by chapter 41.06 RCW, except:

(a) Employees covered for collective bargaining by chapter 41.56 RCW;

(b) Confidential employees;

(c) Members of the Washington management service;

(d) Internal auditors in any agency; or

(e) Any employee of the commission, the office of financial management, ~~((or the department of personnel))~~ or the office of risk management within the department of enterprise services.

(7) "Employee organization" means any organization, union, or association in which employees participate and that exists for the purpose, in whole or in part, of collective bargaining with employers.

(8) "Employer" means the state of Washington.

(9) "Exclusive bargaining representative" means any employee organization that has been certified under this chapter as the representative of the employees in an appropriate bargaining unit.

(10) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(11) "Labor dispute" means any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment with respect to the subjects of bargaining provided in this chapter, regardless of whether the disputants stand in the proximate relation of employer and employee.

(12) "Manager" means "manager" as defined in RCW 41.06.022.

(13) "Supervisor" means an employee who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine nature but requires the consistent exercise of individual judgment. However, no employee who is a member of the Washington management service may be included in a collective bargaining unit established under this section.

(14) "Unfair labor practice" means any unfair labor practice listed in RCW 41.80.110.

**Sec. 445.** RCW 41.80.020 and 2010 c 283 s 16 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the matters subject to bargaining include wages, hours, and other terms and conditions of employment, and the negotiation of any question arising under a collective bargaining agreement.

(2) The employer is not required to bargain over matters pertaining to:

(a) Health care benefits or other employee insurance benefits, except as required in subsection (3) of this section;

(b) Any retirement system or retirement benefit; or

(c) Rules of the human resources director ~~((of personnel))~~, the director of enterprise services, or the Washington personnel resources board adopted under ~~((section 203, chapter 354, Laws of 2002))~~ section 411 of this act.

(3) Matters subject to bargaining include the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits. However, except as provided otherwise in this subsection for institutions of higher education, negotiations regarding the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits shall be conducted between the employer and one coalition of all the exclusive bargaining

representatives subject to this chapter. The exclusive bargaining representatives for employees that are subject to chapter 47.64 RCW shall bargain the dollar amount expended on behalf of each employee for health care benefits with the employer as part of the coalition under this subsection. Any such provision agreed to by the employer and the coalition shall be included in all master collective bargaining agreements negotiated by the parties. For institutions of higher education, promotional preferences and the number of names to be certified for vacancies shall be bargained under the provisions of RCW 41.80.010(4).

(4) The employer and the exclusive bargaining representative shall not agree to any proposal that would prevent the implementation of approved affirmative action plans or that would be inconsistent with the comparable worth agreement that provided the basis for the salary changes implemented beginning with the 1983-1985 biennium to achieve comparable worth.

(5) The employer and the exclusive bargaining representative shall not bargain over matters pertaining to management rights established in RCW 41.80.040.

(6) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

(7) This section does not prohibit bargaining that affects contracts authorized by RCW 41.06.142.

**Sec. 446.** RCW 42.16.010 and 2008 c 186 s 1 are each amended to read as follows:

(1) Except as provided otherwise in subsections (2) and (3) of this section, all state officers and employees shall be paid for services rendered from the first day of the month through the fifteenth day of the month and for services rendered from the sixteenth day of the month through the last calendar day of the month. Paydates for these two pay periods shall be established by the director of financial management through the administrative hearing process and the official paydates shall be established six months prior to the beginning of each subsequent calendar year. Under no circumstance shall the paydate be established more than ten days after the pay period in which the wages are earned except when the designated paydate falls on Sunday, in which case the paydate shall not be later than the following Monday. Payment shall be deemed to have been made by the established paydates if: (a) The salary warrant is available at the geographic work location at which the warrant is normally available to the employee; or (b) the salary has been electronically transferred into the employee's account at the employee's designated financial institution; or (c) the salary warrants are mailed at least two days before the established paydate for those employees engaged in work in remote or varying locations from the geographic location at which the payroll is prepared, provided that the employee has requested payment by mail.

The office of financial management shall develop the necessary policies and operating procedures to assure that all remuneration for services rendered including basic salary, shift differential, standby pay, overtime, penalty pay, salary due based on contractual agreements, and special pay provisions, as provided for by law, (~~Washington personnel resources board rules,~~) agency policy or rule, or contract, shall be available to the employee on the designated paydate. Overtime, penalty pay, and special pay provisions may be paid by the next following paydate if the postponement of payment is attributable to: The employee's not making a timely or accurate report of the facts which are the basis for the payment, or the employer's lack of reasonable opportunity to verify the claim.

Compensable benefits payable because of separation from state service shall be paid with the earnings for the final period worked unless the employee separating has not provided the agency with the proper notification of intent to terminate.

One-half of the employee's basic monthly salary shall be paid in each pay period. Employees paid on an hourly basis or employees who work less than a full pay period shall be paid for actual salary earned.

(2) Subsection (1) of this section shall not apply in instances where it would conflict with contractual rights or, with the approval of the office of financial management, to short-term, intermittent, noncareer state employees, to student employees of institutions of higher education, to national or state guard members participating in state active duty, and to liquor control agency managers who are paid a percentage of monthly liquor sales.

(3) When a national or state guard member is called to participate in state active duty, the paydate shall be no more than seven days following completion of duty or the end of the pay period, whichever is first. When the seventh day falls on Sunday, the paydate shall not be later than the following Monday. This subsection shall apply only to the pay a national or state guard member receives from the military department for state active duty.

(4) Notwithstanding subsections (1) and (2) of this section, a bargained contract at an institution of higher education may include a provision for paying part-time academic employees on a pay schedule that coincides with all the paydays used for full-time academic employees.

**Sec. 447.** RCW 42.17.370 and 2010 1st sp. s. c 7 s 4 are each amended to read as follows:

The commission is empowered to:

(1) Adopt, promulgate, amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.05 RCW. Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a general election year shall take effect no earlier than the day following the general election in that year;

(2) Appoint and set, within the limits established by the (~~department of personnel~~) office of financial management under RCW 43.03.028, the compensation of an executive director who shall perform such duties and have such powers as the commission may prescribe and delegate to implement and enforce this chapter efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor shall it delegate authority to determine whether an actual violation of this chapter has occurred or to assess penalties for such violations;

(3) Prepare and publish such reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(4) Make from time to time, on its own motion, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence and require the production of any books, papers, correspondence, memorandums, or other records relevant or material for the purpose of any investigation authorized under this chapter, or any other proceeding under this chapter;

(7) Adopt and promulgate a code of fair campaign practices;

(8) Relieve, by rule, candidates or political committees of obligations to comply with the provisions of this chapter relating to election campaigns, if they have not received contributions nor

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

made expenditures in connection with any election campaign of more than one thousand dollars;

(9) Adopt rules prescribing reasonable requirements for keeping accounts of and reporting on a quarterly basis costs incurred by state agencies, counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. The term "legislative information," for the purposes of this subsection, means books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his or her regular examination of each agency under chapter 43.09 RCW shall review the rules, accounts, and reports and make appropriate findings, comments, and recommendations in his or her examination reports concerning those agencies;

(10) After hearing, by order approved and ratified by a majority of the membership of the commission, suspend or modify any of the reporting requirements of this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that the suspension or modification will not frustrate the purposes of the chapter. The commission shall find that a manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) would be likely to adversely affect the competitive position of any entity in which the person filing the report or any member of his or her immediate family holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more. Any suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required under this section. Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. No initial request may be heard in a brief adjudicative proceeding and no request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted. The commission shall adopt administrative rules governing the proceedings. Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order; ~~(and)~~

(11) Revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter (reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials), the revisions shall equally affect all thresholds within each category. Revisions shall be adopted as rules under chapter 34.05 RCW. The first revision authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold through December 1985; and

(12) Develop and provide to filers a system for certification of reports required under this chapter which are transmitted by

facsimile or electronically to the commission. Implementation of the program is contingent on the availability of funds.

**Sec. 448.** RCW 42.17A.110 and 2010 1st sp.s. c 7 s 4 and 2010 c 204 s 303 are each reenacted and amended to read as follows:

The commission is empowered to:

(1) Adopt, promulgate, amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.05 RCW. Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a general election year shall take effect no earlier than the day following the general election in that year;

(2) Appoint and set, within the limits established by the ~~((committee on agency officials' salaries))~~ office of financial management under RCW 43.03.028, the compensation of an executive director who shall perform such duties and have such powers as the commission may prescribe and delegate to implement and enforce this chapter efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor shall it delegate authority to determine whether an actual violation of this chapter has occurred or to assess penalties for such violations;

(3) Prepare and publish such reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(4) Make from time to time, on its own motion, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence and require the production of any books, papers, correspondence, memorandums, or other records relevant or material for the purpose of any investigation authorized under this chapter, or any other proceeding under this chapter;

(7) Adopt and promulgate a code of fair campaign practices;

(8) Relieve, by rule, candidates or political committees of obligations to comply with the provisions of this chapter relating to election campaigns, if they have not received contributions nor made expenditures in connection with any election campaign of more than one thousand dollars;

(9) Adopt rules prescribing reasonable requirements for keeping accounts of and reporting on a quarterly basis costs incurred by state agencies, counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. The term "legislative information," for the purposes of this subsection, means books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his or her regular examination of each agency under chapter 43.09 RCW shall review the rules, accounts, and reports and make appropriate findings, comments, and recommendations in his or her examination reports concerning those agencies;

(10) After hearing, by order approved and ratified by a majority of the membership of the commission, suspend or modify any of the reporting requirements of this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that the suspension or modification will not frustrate the purposes of the chapter. The commission shall find that a manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) would be likely to adversely affect the

competitive position of any entity in which the person filing the report or any member of his or her immediate family holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more. Any suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required under this section. Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. No initial request may be heard in a brief adjudicative proceeding and no request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted. The commission shall adopt administrative rules governing the proceedings. Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order; and

(11) Revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter (reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials), the revisions shall equally affect all thresholds within each category. Revisions shall be adopted as rules under chapter 34.05 RCW. The first revision authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold through December 1985;

(12) Develop and provide to filers a system for certification of reports required under this chapter which are transmitted by facsimile or electronically to the commission. Implementation of the program is contingent on the availability of funds.

**Sec. 449.** RCW 43.01.040 and 2009 c 549 s 5001 are each amended to read as follows:

Each subordinate officer and employee of the several offices, departments, and institutions of the state government shall be entitled under their contract of employment with the state government to not less than one working day of vacation leave with full pay for each month of employment if said employment is continuous for six months.

Each such subordinate officer and employee shall be entitled under such contract of employment to not less than one additional working day of vacation with full pay each year for satisfactorily completing the first two, three and five continuous years of employment respectively.

Such part time officers or employees of the state government who are employed on a regular schedule of duration of not less than one year shall be entitled under their contract of employment to that fractional part of the vacation leave that the total number of hours of such employment bears to the total number of hours of full time employment.

Each subordinate officer and employee of the several offices, departments and institutions of the state government shall be entitled under his or her contract of employment with the state government to accrue unused vacation leave not to exceed thirty working days.

Officers and employees transferring within the several offices, departments and institutions of the state government shall be entitled to transfer such accrued vacation leave to each succeeding state office, department or institution. All vacation leave shall be taken at the time convenient to the employing office, department or institution: PROVIDED, That if a subordinate officer's or employee's request for vacation leave is deferred by reason of the convenience of the employing office, department or institution, and a statement of the necessity therefor is (~~filed by such employing office, department or institution with the appropriate personnel board or other state agency or officer~~) retained by the agency, then the aforesaid maximum thirty working days of accrued unused vacation leave shall be extended for each month said leave is so deferred.

**Sec. 450.** RCW 43.01.135 and 2007 c 76 s 2 are each amended to read as follows:

Agencies as defined in RCW 41.06.020, except for institutions of higher education, shall:

(1) Update or develop and disseminate among all agency employees and contractors a policy that:

(a) Defines and prohibits sexual harassment in the workplace;

(b) Includes procedures that describe how the agency will address concerns of employees who are affected by sexual harassment in the workplace;

(c) Identifies appropriate sanctions and disciplinary actions; and

(d) Complies with guidelines adopted by the director of personnel under RCW 41.06.395;

(2) Respond promptly and effectively to sexual harassment concerns;

(3) Conduct training and education for all employees in order to prevent and eliminate sexual harassment in the organization;

(4) Inform employees of their right to file a complaint with the Washington state human rights commission under chapter 49.60 RCW, or with the federal equal employment opportunity commission under Title VII of the civil rights act of 1964; and

(5) Report to the department of (~~personnel~~) enterprise services on compliance with this section.

The cost of the training programs shall be borne by state agencies within existing resources.

**Sec. 451.** RCW 43.03.028 and 2010 1st sp.s. c 7 s 2 are each amended to read as follows:

(1) The (~~department of personnel~~) office of financial management shall study the duties and salaries of the directors of the several departments and the members of the several boards and commissions of state government, who are subject to appointment by the governor or whose salaries are fixed by the governor, and of the chief executive officers of the following agencies of state government:

The arts commission; the human rights commission; the board of accountancy; (~~the board of pharmacy~~); the eastern Washington historical society; the Washington state historical society; the recreation and conservation office; the criminal justice training commission; (~~the department of personnel; the state library~~); the traffic safety commission; the horse racing commission; (~~the advisory council on vocational education~~); the public disclosure commission; the state conservation commission; the commission on Hispanic affairs; the commission on Asian Pacific American affairs; the state board for volunteer firefighters and reserve officers; the transportation improvement board; the public employment relations commission; (~~the forest practices appeals board~~); and the energy facilities site evaluation council.

(2) The (~~department of personnel~~) office of financial management shall report to the governor or the chairperson of the appropriate salary fixing authority at least once in each fiscal biennium on such date as the governor may designate, but not later than seventy-five days prior to the convening of each regular session

THIRTIETH DAY, MAY 25, 2011

of the legislature during an odd-numbered year, its recommendations for the salaries to be fixed for each position.

**Sec. 452.** RCW 43.03.120 and 2009 c 549 s 5009 are each amended to read as follows:

Any state office, commission, department or institution may also pay the moving expenses of a new employee, necessitated by his or her acceptance of state employment, pursuant to mutual agreement with such employee in advance of his or her employment (~~:(PROVIDED, That if such employee is in the classified service as defined in chapter 41.06 RCW, that said employee has been duly certified from an eligible register. No such offer or agreement for such payment shall be made to a prospective member of the classified service, prior to such certification, except through appropriate public announcement by the department of personnel, or other corresponding personnel agency as provided by chapter 41.06 RCW).~~)). Payment for all expenses authorized by RCW 43.03.060, 43.03.110 through 43.03.210 including moving expenses of new employees, exempt or classified, and others, shall be subject to reasonable (~~(regulations promulgated)~~) rules adopted by the director of financial management, including regulations defining allowable moving costs: PROVIDED, That, if the new employee terminates or causes termination of his or her employment with the state within one year of the date of employment, the state shall be entitled to reimbursement for the moving costs which have been paid and may withhold such sum as necessary therefor from any amounts due the employee.

**Sec. 453.** RCW 43.03.130 and 2000 c 153 s 1 are each amended to read as follows:

Any state office, commission, department or institution may agree to pay the travel expenses of a prospective employee as an inducement for such applicant to travel to a designated place to be interviewed by and for the convenience of such agency (~~:(PROVIDED, That if such employment is to be in the classified service, such offer may be made only on the express authorization of the state department of personnel, or other corresponding personnel agency as provided by chapter 41.06 RCW, to applicants reporting for a merit system examination or to applicants from an eligible register reporting for a pre-employment interview).~~)). Travel expenses authorized for prospective employees called for interviews shall be payable at rates in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. When an applicant is called to be interviewed by or on behalf of more than one agency, the authorized travel expenses may be paid directly by the authorizing personnel department or agency, subject to reimbursement from the interviewing agencies on a pro rata basis.

In the case of both classified and exempt positions, such travel expenses will be paid only for applicants being considered for the positions of director, deputy director, assistant director, or supervisor of state departments, boards or commissions; or equivalent or higher positions; or engineers, or other personnel having both executive and professional status. In the case of the state investment board, such travel expenses may also be paid for applicants being considered for investment officer positions. In the case of four-year institutions of higher education, such travel expenses will be paid only for applicants being considered for academic positions above the rank of instructor or professional or administrative employees in supervisory positions. In the case of community and technical colleges, such travel expenses may be paid for applicants being considered for full-time faculty positions or administrative employees in supervisory positions.

**Sec. 454.** RCW 43.06.013 and 2006 c 45 s 1 are each amended to read as follows:

When requested by the governor or the director of the department of (~~(personnel)~~) enterprise services, nonconviction criminal history fingerprint record checks shall be conducted

2011 1ST SPECIAL SESSION

through the Washington state patrol identification and criminal history section and the federal bureau of investigation on applicants for agency head positions appointed by the governor. Information received pursuant to this section shall be confidential and made available only to the governor or director of the department of personnel or their employees directly involved in the selection, hiring, or background investigation of the subject of the record check. When necessary, applicants may be employed on a conditional basis pending completion of the criminal history record check. "Agency head" as used in this section has the same definition as provided in RCW 34.05.010.

**Sec. 455.** RCW 43.06.410 and 1993 c 281 s 47 are each amended to read as follows:

There is established within the office of the governor the Washington state internship program to assist students and state employees in gaining valuable experience and knowledge in various areas of state government. In administering the program, the governor shall:

(1) Consult with the secretary of state, the director of (~~(personnel)~~) enterprise services, the commissioner of the employment security department, and representatives of labor;

(2) Encourage and assist agencies in developing intern positions;

(3) Develop and coordinate a selection process for placing individuals in intern positions. This selection process shall give due regard to the responsibilities of the state to provide equal employment opportunities;

(4) Develop and coordinate a training component of the internship program which balances the need for training and exposure to new ideas with the intern's and agency's need for on-the-job work experience;

(5) Work with institutions of higher education in developing the program, soliciting qualified applicants, and selecting participants; and

(6) Develop guidelines for compensation of the participants.

**Sec. 456.** RCW 43.06.425 and 2002 c 354 s 229 are each amended to read as follows:

The director of (~~(personnel)~~) financial management or the director's designee shall adopt rules to provide that:

(1) Successful completion of an internship under RCW 43.06.420 shall be considered as employment experience at the level at which the intern was placed;

(2) Persons leaving classified or exempt positions in state government in order to take an internship under RCW 43.06.420: (a) Have the right of reversion to the previous position at any time during the internship or upon completion of the internship; and (b) shall continue to receive all fringe benefits as if they had never left their classified or exempt positions;

(3) Participants in the undergraduate internship program who were not public employees prior to accepting a position in the program receive sick leave allowances commensurate with other state employees;

(4) Participants in the executive fellows program who were not public employees prior to accepting a position in the program receive sick and vacation leave allowances commensurate with other state employees.

**Sec. 457.** RCW 43.33A.100 and 2008 c 236 s 1 are each amended to read as follows:

The state investment board shall maintain appropriate offices and employ such personnel as may be necessary to perform its duties. Employment by the investment board shall include but not be limited to an executive director, investment officers, and a confidential secretary, which positions are exempt from classified service under chapter 41.06 RCW. Employment of the executive director by the board shall be for a term of three years, and such

employment shall be subject to confirmation of the state finance committee: PROVIDED, That nothing shall prevent the board from dismissing the director for cause before the expiration of the term nor shall anything prohibit the board, with the confirmation of the state finance committee, from employing the same individual as director in succeeding terms. Compensation levels for the executive director, a confidential secretary, and all investment officers, including the deputy director for investment management, employed by the investment board shall be established by the state investment board. The investment board is authorized to maintain a retention pool within the state investment board expense account under RCW 43.33A.160, from the earnings of the funds managed by the board, pursuant to a performance management and compensation program developed by the investment board, in order to address recruitment and retention problems and to reward performance. The compensation levels and incentive compensation for investment officers shall be limited to the average of total compensation provided by state or other public funds of similar size, based upon a biennial survey conducted by the investment board, with review and comment by the joint legislative audit and review committee. However, in any fiscal year the incentive compensation granted by the investment board from the retention pool to investment officers pursuant to this section may not exceed thirty percent. Disbursements from the retention pool shall be from legislative appropriations and shall be on authorization of the board's executive director or the director's designee.

The investment board shall provide notice to (~~the director of the department of personnel,~~) the director of financial management(,) and the chairs of the house of representatives and senate fiscal committees of proposed changes to the compensation levels for the positions. The notice shall be provided not less than sixty days prior to the effective date of the proposed changes.

As of July 1, 1981, all employees classified under chapter 41.06 RCW and engaged in duties assumed by the state investment board on July 1, 1981, are assigned to the state investment board. The transfer shall not diminish any rights granted these employees under chapter 41.06 RCW nor exempt the employees from any action which may occur thereafter in accordance with chapter 41.06 RCW.

All existing contracts and obligations pertaining to the functions transferred to the state investment board in chapter 3, Laws of 1981 shall remain in full force and effect, and shall be performed by the board. None of the transfers directed by chapter 3, Laws of 1981 shall affect the validity of any act performed by a state entity or by any official or employee thereof prior to July 1, 1981.

**Sec. 458.** RCW 43.130.060 and 1973 2nd ex.s. c 37 s 6 are each amended to read as follows:

In order to reimburse the public employees' retirement system for any increased costs occasioned by the provisions of this chapter which affect the retirement system, the (~~public employees' retirement board~~) director of retirement systems shall, within thirty days of the date upon which any affected employee elects to take advantage of the retirement provisions of this chapter, determine the increased present and future cost to the retirement system of such employee's election. Upon the determination of the amount necessary to offset (~~said~~) the increased cost, the (~~retirement board~~) director of retirement systems shall bill the department of (~~personnel~~) enterprise services for the amount of the increased cost: PROVIDED, That such billing shall not exceed eight hundred sixty-one thousand dollars. Such billing shall be paid by the department as, and the same shall be, a proper charge against any moneys available or appropriated to the department for this purpose.

**Sec. 459.** RCW 43.131.090 and 2002 c 354 s 230 are each amended to read as follows:

Unless the legislature specifies a shorter period of time, a terminated entity shall continue in existence until June 30th of the next succeeding year for the purpose of concluding its affairs:

PROVIDED, That the powers and authority of the entity shall not be reduced or otherwise limited during this period. Unless otherwise provided:

(1) All employees of terminated entities classified under chapter 41.06 RCW, the state civil service law, shall be transferred as appropriate or as otherwise provided in the procedures adopted by the human resources director (~~(of personnel)~~) pursuant to RCW 41.06.150;

(2) All documents and papers, equipment, or other tangible property in the possession of the terminated entity shall be delivered to the custody of the entity assuming the responsibilities of the terminated entity or if such responsibilities have been eliminated, documents and papers shall be delivered to the state archivist and equipment or other tangible property to the department of (~~general administration~~) enterprise services;

(3) All funds held by, or other moneys due to, the terminated entity shall revert to the fund from which they were appropriated, or if that fund is abolished to the general fund;

(4) Notwithstanding the provisions of RCW 34.05.020, all rules made by a terminated entity shall be repealed, without further action by the entity, at the end of the period provided in this section, unless assumed and reaffirmed by the entity assuming the related legal responsibilities of the terminated entity;

(5) All contractual rights and duties of an entity shall be assigned or delegated to the entity assuming the responsibilities of the terminated entity, or if there is none to such entity as the governor shall direct.

**Sec. 460.** RCW 48.37.060 and 2008 c 100 s 2 are each amended to read as follows:

(1) When the commissioner determines that other market conduct actions identified in RCW 48.37.040(4)(a) have not sufficiently addressed issues raised concerning company activities in Washington state, the commissioner has the discretion to conduct market conduct examinations in accordance with the NAIC market conduct uniform examination procedures and the NAIC market regulation handbook.

(2)(a) In lieu of an examination of an insurer licensed in this state, the commissioner shall accept an examination report of another state, unless the commissioner determines that the other state does not have laws substantially similar to those of this state, or does not have a market oversight system that is comparable to the market conduct oversight system set forth in this law.

(b) The commissioner's determination under (a) of this subsection is discretionary with the commissioner and is not subject to appeal.

(c) If the insurer to be examined is part of an insurance holding company system, the commissioner may also seek to simultaneously examine any affiliates of the insurer under common control and management which are licensed to write the same lines of business in this state.

(3) Before commencement of a market conduct examination, market conduct oversight personnel shall prepare a work plan consisting of the following:

- (a) The name and address of the insurer being examined;
- (b) The name and contact information of the examiner-in-charge;
- (c) The name of all market conduct oversight personnel initially assigned to the market conduct examination;
- (d) The justification for the examination;
- (e) The scope of the examination;
- (f) The date the examination is scheduled to begin;
- (g) Notice of any noninsurance department personnel who will assist in the examination;
- (h) A time estimate for the examination;
- (i) A budget for the examination if the cost of the examination is billed to the insurer; and

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(j) An identification of factors that will be included in the billing if the cost of the examination is billed to the insurer.

(4)(a) Within ten days of the receipt of the information contained in subsection (3) of this section, insurers may request the commissioner's discretionary review of any alleged conflict of interest, pursuant to RCW 48.37.090(2), of market conduct oversight personnel and noninsurance department personnel assigned to a market conduct examination. The request for review shall specifically describe the alleged conflict of interest in the proposed assignment of any person to the examination.

(b) Within five business days of receiving a request for discretionary review of any alleged conflict of interest in the proposed assignment of any person to a market conduct examination, the commissioner or designee shall notify the insurer of any action regarding the assignment of personnel to a market conduct examination based on the insurer's allegation of conflict of interest.

(5) Market conduct examinations shall, to the extent feasible, use desk examinations and data requests before an on-site examination.

(6) Market conduct examinations shall be conducted in accordance with the provisions set forth in the NAIC market regulation handbook and the NAIC market conduct uniform examinations procedures, subject to the precedence of the provisions of chapter 82, Laws of 2007.

(7) The commissioner shall use the NAIC standard data request.

(8) Announcement of the examination shall be sent to the insurer and posted on the NAIC's examination tracking system as soon as possible but in no case later than sixty days before the estimated commencement of the examination, except where the examination is conducted in response to extraordinary circumstances as described in RCW 48.37.050(2)(a). The announcement sent to the insurer shall contain the examination work plan and a request for the insurer to name its examination coordinator.

(9) If an examination is expanded significantly beyond the original reasons provided to the insurer in the notice of the examination required by subsection (3) of this section, the commissioner shall provide written notice to the insurer, explaining the expansion and reasons for the expansion. The commissioner shall provide a revised work plan if the expansion results in significant changes to the items presented in the original work plan required by subsection (3) of this section.

(10) The commissioner shall conduct a preexamination conference with the insurer examination coordinator and key personnel to clarify expectations at least thirty days before commencement of the examination, unless otherwise agreed by the insurer and the commissioner.

(11) Before the conclusion of the field work for market conduct examination, the examiner-in-charge shall review examination findings to date with insurer personnel and schedule an exit conference with the insurer, in accordance with procedures in the NAIC market regulation handbook.

(12)(a) No later than sixty days after completion of each market conduct examination, the commissioner shall make a full written report of each market conduct examination containing only facts ascertained from the accounts, records, and documents examined and from the sworn testimony of individuals, and such conclusions and recommendations as may reasonably be warranted from such facts.

(b) The report shall be certified by the commissioner or by the examiner-in-charge of the examination, and shall be filed in the commissioner's office subject to (c) of this subsection.

(c) The commissioner shall furnish a copy of the market conduct examination report to the person examined not less than ten

days and, unless the time is extended by the commissioner, not more than thirty days prior to the filing of the report for public inspection in the commissioner's office. If the person so requests in writing within such period, the commissioner shall hold a hearing to consider objections of such person to the report as proposed, and shall not so file the report until after such hearing and until after any modifications in the report deemed necessary by the commissioner have been made.

(d) Within thirty days of the end of the period described in (c) of this subsection, unless extended by order of the commissioner, the commissioner shall consider the report, together with any written submissions or rebuttals and any relevant portions of the examiner's work papers and enter an order:

(i) Adopting the market conduct examination report as filed or with modification or corrections. If the market conduct examination report reveals that the company is operating in violation of any law, rule, or order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure that violation;

(ii) Rejecting the market conduct examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refiling under this subsection; or

(iii) Calling for an investigatory hearing with no less than twenty days' notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

(e) All orders entered under (d) of this subsection must be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the market conduct examination report, relevant examiner work papers, and any written submissions or rebuttals. The order is considered a final administrative decision and may be appealed under the administrative procedure act, chapter 34.05 RCW, and must be served upon the company by certified mail or certifiable electronic means, together with a copy of the adopted examination report. A copy of the adopted examination report must be sent by certified mail or certifiable electronic means to each director at the director's residential address or to a personal e-mail account.

(f)(i) Upon the adoption of the market conduct examination report under (d) of this subsection, the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of five days except that the order may be disclosed to the person examined. Thereafter, the commissioner may open the report for public inspection so long as no court of competent jurisdiction has stayed its publication.

(ii) If the commissioner determines that regulatory action is appropriate as a result of any market conduct examination, he or she may initiate any proceedings or actions as provided by law.

(iii) Nothing contained in this subsection requires the commissioner to disclose any information or records that would indicate or show the existence or content of any investigation or activity of a criminal justice agency.

(g) The insurer's response shall be included in the commissioner's order adopting the final report as an exhibit to the order. The insurer is not obligated to submit a response.

(13) The commissioner may withhold from public inspection any examination or investigation report for so long as he or she deems it advisable.

(14)(a) Market conduct examinations within this state of any insurer domiciled or having its home offices in this state, other than a title insurer, made by the commissioner or the commissioner's examiners and employees shall, except as to fees, mileage, and expense incurred as to witnesses, be at the expense of the state.

(b) Every other examination, whatsoever, or any part of the market conduct examination of any person domiciled or having its home offices in this state requiring travel and services outside this state, shall be made by the commissioner or by examiners designated by the commissioner and shall be at the expense of the person examined; but a domestic insurer shall not be liable for the compensation of examiners employed by the commissioner for such services outside this state.

(c) When making a market conduct examination under this chapter, the commissioner may contract, in accordance with applicable state contracting procedures, for qualified attorneys, appraisers, independent certified public accountants, contract actuaries, and other similar individuals who are independently practicing their professions, even though those persons may from time to time be similarly employed or retained by persons subject to examination under this chapter, as examiners as the commissioner deems necessary for the efficient conduct of a particular examination. The compensation and per diem allowances paid to such contract persons shall be reasonable in the market and time incurred, shall not exceed one hundred twenty-five percent of the compensation and per diem allowances for examiners set forth in the guidelines adopted by the national association of insurance commissioners, unless the commissioner demonstrates that one hundred twenty-five percent is inadequate under the circumstances of the examination, and subject to the provisions of (a) of this subsection.

(d)(i) The person examined and liable shall reimburse the state upon presentation of an itemized statement thereof, for the actual travel expenses of the commissioner's examiners, their reasonable living expenses allowance, and their per diem compensation, including salary and the employer's cost of employee benefits, at a reasonable rate approved by the commissioner, incurred on account of the examination. Per diem, salary, and expenses for employees examining insurers domiciled outside the state of Washington shall be established by the commissioner on the basis of the national association of insurance commissioner's recommended salary and expense schedule for zone examiners, or the salary schedule established by the human resources director (~~of the Washington department of personnel~~) and the expense schedule established by the office of financial management, whichever is higher. A domestic title insurer shall pay the examination expense and costs to the commissioner as itemized and billed by the commissioner.

(ii) The commissioner or the commissioner's examiners shall not receive or accept any additional emolument on account of any examination.

(iii) Market conduct examination fees subject to being reimbursed by an insurer shall be itemized and bills shall be provided to the insurer on a monthly basis for review prior to submission for payment, or as otherwise provided by state law.

(e) Nothing contained in this chapter limits the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action under the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination are prima facie evidence in any legal or regulatory action.

(f) The commissioner shall maintain active management and oversight of market conduct examination costs, including costs associated with the commissioner's own examiners, and with retaining qualified contract examiners necessary to perform an examination. Any agreement with a contract examiner shall:

(i) Clearly identify the types of functions to be subject to outsourcing;

(ii) Provide specific timelines for completion of the outsourced review;

(iii) Require disclosure to the insurer of contract examiners' recommendations;

(iv) Establish and use a dispute resolution or arbitration mechanism to resolve conflicts with insurers regarding examination fees; and

(v) Require disclosure of the terms of the contracts with the outside consultants that will be used, specifically the fees and/or hourly rates that can be charged.

(g) The commissioner, or the commissioner's designee, shall review and affirmatively endorse detailed billings from the qualified contract examiner before the detailed billings are sent to the insurer.

**Sec. 461.** RCW 49.46.010 and 2010 c 160 s 2 and 2010 c 8 s 12040 are each reenacted and 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 salesperson as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the human resources 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;



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(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 RCW 49.12.465;

(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.

**Sec. 462.** RCW 49.46.010 and 2010 c 8 s 12040 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 salesperson as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the human resources 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;

(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.

**Sec. 463.** RCW 49.74.020 and 1993 c 281 s 57 are each amended to read as follows:

If the commission reasonably believes that a state agency, an institution of higher education, or the state patrol has failed to comply with an affirmative action rule adopted under RCW 41.06.150 or 43.43.340, the commission shall notify the director of the state agency, president of the institution of higher education, or chief of the Washington state patrol of the noncompliance, as well as the human resources director (~~(of personnel)~~). The commission shall give the director of the state agency, president of the institution of higher education, or chief of the Washington state patrol an opportunity to be heard on the failure to comply.

**Sec. 464.** RCW 49.74.030 and 2002 c 354 s 246 are each amended to read as follows:

The commission in conjunction with the department of ~~(personnel)~~ enterprise services, the office of financial management, or the state patrol, whichever is appropriate, shall attempt to resolve the noncompliance through conciliation. If an agreement is reached for the elimination of noncompliance, the agreement shall be reduced to writing and an order shall be issued by the commission setting forth the terms of the agreement. The noncomplying state agency, institution of higher education, or state patrol shall make a good faith effort to conciliate and make a full commitment to correct the noncompliance with any action that may be necessary to achieve compliance, provided such action is not inconsistent with the rules adopted under RCW 41.06.150~~((6))~~(5) and 43.43.340(5), whichever is appropriate.

**Sec. 465.** RCW 49.90.010 and 2009 c 294 s 5 are each amended to read as follows:

(1) Within this section, "sensory disability" means a sensory condition that materially limits, contributes to limiting, or, if not corrected or accommodated, will probably result in limiting an individual's activities or functioning.

(2) The ~~((department of personnel))~~ office of financial management shall adopt rules that authorize state agencies to provide allowances to employees with sensory disabilities who must attend training necessary to attain a new service animal. The employee's absence must be treated in the same manner as that granted to employees who are absent to attend training that supports or improves their job performance, except that the employee shall not be eligible for reimbursement under RCW 43.03.050 or 43.03.060. The ~~((department of personnel))~~ office of financial management shall adopt rules as necessary to implement this chapter.

(3) If the necessity to attend training for a new service animal is foreseeable and the training will cause the employee to miss work, the employee shall provide the employer with not less than thirty days' notice, before the date the absence is to begin, of the employee's impending absence. If the date of the training requires the absence to begin in less than thirty days, the employee shall provide notice as is practicable.

(4) An agency may require that a request to attend service animal training be supported by a certification issued by the relevant training organization. The employee must provide, in a timely manner, a copy of the certification to the agency. Certification provided under this section is sufficient if it states: (a) The date on which the service animal training session is scheduled to commence; and (b) the session's duration.

**Sec. 466.** RCW 50.13.060 and 2008 c 120 s 6 are each amended to read as follows:

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

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

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

(c) The agency requesting access has served a copy of the application for records or information on the individual or employing unit whose records or information are sought and has provided the department with proof of service. Service shall be

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

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

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

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

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

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

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

released to unauthorized parties subject to the sanctions in RCW 50.13.080.

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 467.** RCW 28A.345.060 and 1986 c 158 s 3 are each amended to read as follows:

The association shall contract with the ~~((department of personnel for the department of personnel))~~ human resources director in the office of financial management to audit in odd-numbered years the association's staff classifications and employees' salaries. The association shall give copies of the audit reports to the office of financial management and the committees of each house of the legislature dealing with common schools.

**Sec. 468.** RCW 28A.400.201 and 2010 c 236 s 7 are each amended to read as follows:

(1) The legislature recognizes that providing students with the opportunity to access a world-class educational system depends on our continuing ability to provide students with access to world-class educators. The legislature also understands that continuing to attract and retain the highest quality educators will require increased investments. The legislature intends to enhance the current salary allocation model and recognizes that changes to the current model cannot be imposed without great deliberation and input from teachers, administrators, and classified employees. Therefore, it is the intent of the legislature to begin the process of developing an enhanced salary allocation model that is collaboratively designed to ensure the rationality of any conclusions regarding what constitutes adequate compensation.

(2) Beginning July 1, 2011, the office of the superintendent of public instruction, in collaboration with the human resources director in the office of financial management, shall convene a technical working group to recommend the details of an enhanced salary allocation model that aligns state expectations for educator development and certification with the compensation system and establishes recommendations for a concurrent implementation schedule. In addition to any other details the technical working group deems necessary, the technical working group shall make recommendations on the following:

- (a) How to reduce the number of tiers within the existing salary allocation model;
- (b) How to account for labor market adjustments;
- (c) How to account for different geographic regions of the state where districts may encounter difficulty recruiting and retaining teachers;
- (d) The role of and types of bonuses available;
- (e) Ways to accomplish salary equalization over a set number of years; and
- (f) Initial fiscal estimates for implementing the recommendations including a recognition that staff on the existing salary allocation model would have the option to grandfather in permanently to the existing schedule.

(3) As part of its work, the technical working group shall conduct or contract for a preliminary comparative labor market analysis of salaries and other compensation for school district employees to be conducted and shall include the results in any reports to the legislature. For the purposes of this subsection, "salaries and other compensation" includes average base salaries, average total salaries, average employee basic benefits, and retirement benefits.

(4) The analysis required under subsection (1) of this section must:

- (a) Examine salaries and other compensation for teachers, other certificated instructional staff, principals, and other building-level certificated administrators, and the types of classified employees for whom salaries are allocated;
- (b) Be calculated at a statewide level that identifies labor markets in Washington through the use of data from the United States bureau of the census and the bureau of labor statistics; and
- (c) Include a comparison of salaries and other compensation to the appropriate labor market for at least the following subgroups of educators: Beginning teachers and types of educational staff associates.

(5) The working group shall include representatives of the (~~department of personnel~~) office of financial management, the professional educator standards board, the office of the superintendent of public instruction, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with appropriate expertise in compensation related matters. The working group 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 be monitored and overseen by the legislature and the quality education council created in RCW 28A.290.010. The working group shall make an initial report to the legislature by June 30, 2012, and shall include in its report recommendations for whether additional further work of the group is necessary.

**Sec. 469.** RCW 34.12.100 and 2010 1st sp.s. c 7 s 3 are each amended to read as follows:

The chief administrative law judge shall be paid a salary fixed by the governor after recommendation of the (~~department of~~

~~personnel~~) human resources director in the office of financial management. The salaries of administrative law judges appointed under the terms of this chapter shall be determined by the chief administrative law judge after recommendation of the department of personnel.

**Sec. 470.** RCW 36.21.011 and 1995 c 134 s 12 are each amended to read as follows:

Any assessor who deems it necessary in order to complete the listing and the valuation of the property of the county within the time prescribed by law, (1) may appoint one or more well qualified persons to act as assistants or deputies who shall not engage in the private practice of appraising within the county in which he or she is employed without the written permission of the assessor filed with the auditor; and each such assistant or deputy so appointed shall, under the direction of the assessor, after taking the required oath, perform all the duties enjoined upon, vested in or imposed upon assessors, and (2) may contract with any persons, firms or corporations, who are expert appraisers, to assist in the valuation of property.

To assist each assessor in obtaining adequate and well qualified assistants or deputies, the (~~state department of personnel~~) office of financial management, after consultation with the Washington state association of county assessors, the Washington state association of counties, and the department of revenue, shall establish by July 1, 1967, and shall thereafter maintain, a classification and salary plan for those employees of an assessor who act as appraisers. The plan shall recommend the salary range and employment qualifications for each position encompassed by it, and shall, to the fullest extent practicable, conform to the classification plan, salary schedules and employment qualifications for state employees performing similar appraisal functions.

An assessor who intends to put such plan into effect shall inform the department of revenue and the county legislative authority of this intent in writing. The department of revenue and the county legislative authority may thereupon each designate a representative, and such representative or representatives as may be designated by the department of revenue or the county legislative authority, or both, shall form with the assessor a committee. The committee so formed may, by unanimous vote only, determine the required number of certified appraiser positions and their salaries necessary to enable the assessor to carry out the requirements relating to revaluation of property in chapter 84.41 RCW. The determination of the committee shall be certified to the county legislative authority. The committee may be formed only once in a period of four calendar years.

After such determination, the assessor may provide, in each of the four next succeeding annual budget estimates, for as many positions as are established in such determination. Each county legislative authority to which such a budget estimate is submitted shall allow sufficient funds for such positions. An employee may be appointed to a position covered by the plan only if the employee meets the employment qualifications established by the plan.

**Sec. 471.** RCW 41.04.020 and 1998 c 116 s 1 are each amended to read as follows:

Any employee or group of employees of the state of Washington or any of its political subdivisions, or of any institution supported, in whole or in part, by the state or any of its political subdivisions, may authorize the deduction from his or her salaries or wages and payment to another, the amount or amounts of his or her subscription payments or contributions to any person, firm, or corporation administering, furnishing, or providing (1) medical, surgical, and hospital care or either of them, or (2) life insurance or accident and health disability insurance, or (3) any individual retirement account selected by the employee or the employee's spouse established under applicable state or federal law: PROVIDED, That such authorization by said employee or group of

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

employees, shall be first approved by the head of the department, division office or institution of the state or any political subdivision thereof, employing such person or group of persons, and filed with the department of ~~((personnel))~~ enterprise services; or in the case of political subdivisions of the state of Washington, with the auditor of such political subdivision or the person authorized by law to draw warrants against the funds of said political subdivision.

**Sec. 472.** RCW 41.04.460 and 1992 c 234 s 10 are each amended to read as follows:

The department of ~~((personnel))~~ enterprise services, through the combined benefits communication project, shall prepare information encouraging individual financial planning for retirement and describing the potential consequences of early retirement, including members' assumption of health insurance costs, members' receipt of reduced retirement benefits, and the increased period of time before members will become eligible for cost-of-living adjustments. The department of retirement systems shall distribute the information to members who are eligible to retire under the provisions of chapter 234, Laws of 1992. Prior to retiring, such members who elect to retire shall sign a statement acknowledging their receipt and understanding of the information.

**Sec. 473.** RCW 41.60.050 and 1991 sp.s. c 16 s 918 are each amended to read as follows:

The legislature shall appropriate from the ~~((department of))~~ personnel service fund for the payment of administrative costs of the productivity board. However, during the 1991-93 fiscal biennium, the administrative costs of the productivity board shall be appropriated from the savings recovery account.

**Sec. 474.** RCW 41.68.030 and 1983 1st ex.s. c 15 s 3 are each amended to read as follows:

A claim under this chapter may be submitted to the department of ~~((personnel))~~ enterprise services for the reparation of salary losses suffered during the years 1942 through 1947. The claim shall be supported by appropriate verification, such as the person's name at the time of the dismissal, the name of the employing department, and a social security number, or by evidence of official action of termination. The claimant shall also provide an address to which the department shall mail notification of its determination regarding the claimant's eligibility.

**Sec. 475.** RCW 41.68.040 and 1983 1st ex.s. c 15 s 4 are each amended to read as follows:

(1) The department of ~~((personnel))~~ enterprise services shall determine the eligibility of a claimant to receive reparations authorized by this chapter. The department shall then notify the claimant by mail of its determination regarding the claimant's eligibility.

(2) The department may adopt rules that will assist in the fair determination of eligibility and the processing of claims. The department, however, has no obligation to directly notify any person of possible eligibility for reparation of salary losses under this chapter.

**Sec. 476.** RCW 41.68.050 and 1983 1st ex.s. c 15 s 5 are each amended to read as follows:

A claimant under this chapter who is determined eligible by the department of ~~((personnel))~~ enterprise services shall receive two thousand five hundred dollars each year for two years. All claims which the department determines are eligible for reparation shall be immediately forwarded to the state treasurer, who shall issue warrants in the appropriate amounts upon demand and verification of identity. If a claimant dies after filing a claim but before receiving full payment, payments shall be made to the claimant's estate up on demand and verification of identity.

**Sec. 477.** RCW 47.28.251 and 2003 c 363 s 103 are each amended to read as follows:

(1) The department of transportation shall work with representatives of transportation labor groups to develop a financial incentive program to aid in retention and recruitment of employee classifications where problems exist and program delivery is negatively affected. The department's financial incentive program must be reviewed and approved by the legislature before it can be implemented. This program must support the goal of enhancing project delivery timelines as outlined in section 101, chapter 363, Laws of 2003. Upon receiving approval from the legislature, the ~~((department of personnel))~~ office of financial management shall implement, as required, specific aspects of the financial incentive package, as developed by the department of transportation.

(2) Notwithstanding chapter 41.06 RCW, the department of transportation may acquire services from qualified private firms in order to deliver the transportation construction program to the public. Services may be acquired solely for augmenting the department's workforce capacity and only when the department's transportation construction program cannot be delivered through its existing or readily available workforce. The department of transportation shall work with representatives of transportation labor groups to develop and implement a program identifying those projects requiring contracted services while establishing a program as defined in subsection (1) of this section to provide the classified personnel necessary to deliver future construction programs. The procedures for acquiring construction engineering services from private firms may not be used to displace existing state employees nor diminish the number of existing classified positions in the present construction program. The acquisition procedures must be in accordance with chapter 39.80 RCW.

(3) Starting in December 2004, and biennially thereafter, the secretary shall report to the transportation committees of the legislature on the use of construction engineering services from private firms authorized under this section. The information provided to the committees must include an assessment of the benefits and costs associated with using construction engineering services, or other services, from private firms, and a comparison of public versus private sector costs. The secretary may act on these findings to ensure the most cost-effective means of service delivery.

**NEW SECTION. Sec. 478.** The following acts or parts of acts are each repealed:

(1) RCW 41.06.030 (Department of personnel established) and 2002 c 354 s 201, 1993 c 281 s 20, & 1961 c 1 s 3;

(2) RCW 41.06.111 (Personnel appeals board abolished--Powers, duties, and functions transferred to the Washington personnel resources board) and 2002 c 354 s 233;

(3) RCW 41.06.130 (Director of personnel--Appointment--Rules-- Powers and duties--Delegation of authority) and 1993 c 281 s 26, 1982 1st ex.s. c 53 s 3, & 1961 c 1 s 13;

(4) RCW 41.06.139 (Classification system for classified service-- Director implements--Rules of the board--Appeals) and 2002 c 354 s 206;

(5) RCW 41.06.480 (Background check disqualification--Policy recommendations) and 2001 c 296 s 7; and

(6) RCW 41.07.900 (Transfer of personnel, records, equipment, etc) and 1975 1st ex.s. c 239 s 4.

**NEW SECTION. Sec. 479.** RCW 41.06.136, 43.31.086, 41.80.900, 41.80.901, 41.80.902, 41.80.903, and 41.80.904 are each decodified.

**NEW SECTION. Sec. 480.** Section 447 of this act expires January 1, 2012.

**NEW SECTION. Sec. 481.** Section 448 of this act takes effect January 1, 2012.

**NEW SECTION. Sec. 482.** Section 459 of this act expires June 30, 2015.

NEW SECTION. Sec. 483. Section 461 of this act expires December 31, 2011.

NEW SECTION. Sec. 484. Section 462 of this act takes effect December 31, 2011.

**PART V  
POWERS AND DUTIES TRANSFERRED FROM THE  
OFFICE OF FINANCIAL MANAGEMENT**

**Sec. 501.** RCW 43.41.290 and 1977 ex.s. c 270 s 3 are each amended to read as follows:

As used in ((RCW 43.19.19361 and 43.19.19362)) this act:

(1) "State agency" includes any state office, agency, commission, department, or institution, including colleges, universities, and community colleges, financed in whole or part from funds appropriated by the legislature; ~~((and))~~

(2) "Risk management" means the total effort and continuous step by step process of risk identification, measurement, minimization, assumption, transfer, and loss adjustment which is aimed at protecting assets and revenues against accidental loss;

(3) "Department" means the department of enterprise services; and

(4) "Director" means the director of enterprise services.

**Sec. 502.** RCW 43.41.300 and 2002 c 332 s 7 are each amended to read as follows:

There is hereby created ((a)) an office of risk management ((division)) within the ((office of financial management)) department of enterprise services. The director shall implement the risk management policy in RCW 43.41.280 (as recodified by this act) through the office of risk management ((division)). The director shall appoint a risk manager to supervise the office of risk management ((division)). The office of risk management ((division)) shall make recommendations when appropriate to state agencies on the application of prudent safety, security, loss prevention, and loss minimization methods so as to reduce or avoid risk or loss.

**Sec. 503.** RCW 43.41.310 and 2002 c 332 s 5 are each amended to read as follows:

As a means of providing for the procurement of insurance and bonds on a volume rate basis, the director shall purchase or contract for the needs of state agencies in relation to all such insurance and bonds: PROVIDED, That authority to purchase insurance may be delegated to state agencies. Insurance in force shall be reported to the office of risk management ((division)) periodically under rules established by the director. Nothing contained in this section shall prohibit the use of licensed agents or brokers for the procurement and service of insurance.

The amounts of insurance or bond coverage shall be as fixed by law, or if not fixed by law, such amounts shall be as fixed by the director.

The premium cost for insurance acquired and bonds furnished shall be paid from appropriations or other appropriate resources available to the state agency or agencies for which procurement is made, and all vouchers drawn in payment therefor shall bear the written approval of the office of risk management ((division)) prior to the issuance of the warrant in payment therefor. Where deemed advisable the premium cost for insurance and bonds may be paid by the risk management administration account which shall be reimbursed by the agency or agencies for which procurement is made.

**Sec. 504.** RCW 43.41.320 and 2002 c 332 s 6 are each amended to read as follows:

The director, through the office of risk management ((division)), may purchase, or contract for the purchase of, property and liability insurance for any municipality upon request of the municipality.

As used in this section, "municipality" means any city, town, county, special purpose district, municipal corporation, or political subdivision of the state of Washington.

**Sec. 505.** RCW 43.41.330 and 2002 c 332 s 8 are each amended to read as follows:

The director, through the office of risk management ((division)), shall receive and enforce bonds posted pursuant to RCW 39.59.010 (3) and (4).

**Sec. 506.** RCW 43.41.340 and 2002 c 332 s 9 are each amended to read as follows:

The ~~((office))~~ department shall conduct periodic actuarial studies to determine the amount of money needed to adequately fund the liability account.

**Sec. 507.** RCW 43.41.360 and 2009 c 549 s 5121 are each amended to read as follows:

((In addition to other powers and duties prescribed by this chapter,)) The director shall:

(1) Fix the amount of bond to be given by each appointive state officer and each employee of the state in all cases where it is not fixed by law;

(2) Require the giving of an additional bond, or a bond in a greater amount than provided by law, in all cases where in his or her judgment the statutory bond is not sufficient in amount to cover the liabilities of the officer or employee;

(3) Exempt subordinate employees from giving bond when in his or her judgment their powers and duties are such as not to require a bond.

**Sec. 508.** RCW 43.41.370 and 2002 c 333 s 2 are each amended to read as follows:

(1) The director ~~((of financial management))~~ shall appoint a loss prevention review team when the death of a person, serious injury to a person, or other substantial loss is alleged or suspected to be caused at least in part by the actions of a state agency, unless the director in his or her discretion determines that the incident does not merit review. A loss prevention review team may also be appointed when any other substantial loss occurs as a result of agency policies, litigation or defense practices, or other management practices. When the director decides not to appoint a loss prevention review team he or she shall issue a statement of the reasons for the director's decision. The statement shall be made available on the department's web site ~~((of the office of financial management))~~. The director's decision pursuant to this section to appoint or not appoint a loss prevention review team shall not be admitted into evidence in a civil or administrative proceeding.

(2) A loss prevention review team shall consist of at least three but no more than five persons, and may include independent consultants, contractors, or state employees, but it shall not include any person employed by the agency involved in the loss or risk of loss giving rise to the review, nor any person with testimonial knowledge of the incident to be reviewed. At least one member of the review team shall have expertise relevant to the matter under review.

(3) The loss prevention review team shall review the death, serious injury, or other incident and the circumstances surrounding it, evaluate its causes, and recommend steps to reduce the risk of such incidents occurring in the future. The loss prevention review team shall accomplish these tasks by reviewing relevant documents, interviewing persons with relevant knowledge, and reporting its recommendations in writing to the director ~~((of financial management))~~ and the director of the agency involved in the loss or risk of loss within the time requested by the director ~~((of financial management))~~. The final report shall not disclose the contents of any documents required by law to be kept confidential.

(4) Pursuant to guidelines established by the director, state agencies must notify the ~~((office of financial management))~~ department immediately upon becoming aware of a death, serious

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

injury, or other substantial loss that is alleged or suspected to be caused at least in part by the actions of the state agency. State agencies shall provide the loss prevention review team ready access to relevant documents in their possession and ready access to their employees.

**Sec. 509.** RCW 43.41.380 and 2002 c 333 s 3 are each amended to read as follows:

(1) The final report from a loss prevention review team to the director (~~(of financial management)~~) shall be made public by the director promptly upon receipt, and shall be subject to public disclosure. The final report shall be subject to discovery in a civil or administrative proceeding. However, the final report shall not be admitted into evidence or otherwise used in a civil or administrative proceeding except pursuant to subsection (2) of this section.

(2) The relevant excerpt or excerpts from the final report of a loss prevention review team may be used to impeach a fact witness in a civil or administrative proceeding only if the party wishing to use the excerpt or excerpts from the report first shows the court by clear and convincing evidence that the witness, in testimony provided in deposition or at trial in the present proceeding, has contradicted his or her previous statements to the loss prevention review team on an issue of fact material to the present proceeding. In that case, the party may use only the excerpt or excerpts necessary to demonstrate the contradiction. This section shall not be interpreted as expanding the scope of material that may be used to impeach a witness.

(3) No member of a loss prevention review team may be examined in a civil or administrative proceeding as to (a) the work of the loss prevention review team, (b) the incident under review, (c) his or her statements, deliberations, thoughts, analyses, or impressions relating to the work of the loss prevention review team or the incident under review, or (d) the statements, deliberations, thoughts, analyses, or impressions of any other member of the loss prevention review team, or any person who provided information to it, relating to the work of the loss prevention review team or the incident under review.

(4) Any document that exists prior to the appointment of a loss prevention review team, or that is created independently of such a team, does not become inadmissible merely because it is reviewed or used by the loss prevention review team. A person does not become unavailable as a witness merely because the person has been interviewed by or has provided a statement to a loss prevention review team. However, if called as a witness, the person may not be examined regarding the person's interactions with the loss prevention review team, including without limitation whether the loss prevention review team interviewed the person, what questions the loss prevention review team asked, and what answers the person provided to the loss prevention review team. This section shall not be construed as restricting the person from testifying fully in any proceeding regarding his or her knowledge of the incident under review.

(5) Documents prepared by or for the loss prevention review team are inadmissible and may not be used in a civil or administrative proceeding, except that excerpts may be used to impeach the credibility of a witness under the same circumstances that excerpts of the final report may be used pursuant to subsection (2) of this section.

(6) The restrictions set forth in this section shall not apply in a licensing or disciplinary proceeding arising from an agency's effort to revoke or suspend the license of any licensed professional based in whole or in part upon allegations of wrongdoing in connection with the death, injury, or other incident reviewed by the loss prevention review team.

(7) Within one hundred twenty days after completion of the final report of a loss prevention review team, the agency under review shall issue to the ~~(office of financial management)~~ department a response to the report. The response will indicate (a) which of the report's recommendations the agency hopes to implement, (b) whether implementation of those recommendations will require additional funding or legislation, and (c) whatever other information the director may require. This response shall be considered part of the final report and shall be subject to all provisions of this section that apply to the final report, including without limitation the restrictions on admissibility and use in civil or administrative proceedings and the obligation of the director to make the final report public.

(8) Nothing in RCW 43.41.370 or this section is intended to limit the scope of a legislative inquiry into or review of an incident that is the subject of a loss prevention review.

(9) Nothing in RCW 43.41.370 or in this section affects chapter 70.41 RCW and application of that chapter to state-owned or managed hospitals licensed under chapter 70.41 RCW.

**Sec. 510.** RCW 43.41.110 and 2002 c 332 s 23 are each amended to read as follows:

The office of financial management shall:

(1) Provide technical assistance to the governor and the legislature in identifying needs and in planning to meet those needs through state programs and a plan for expenditures.

(2) Perform the comprehensive planning functions and processes necessary or advisable for state program planning and development, preparation of the budget, inter-departmental and inter-governmental coordination and cooperation, and determination of state capital improvement requirements.

(3) Provide assistance and coordination to state agencies and departments in their preparation of plans and programs.

(4) Provide general coordination and review of plans in functional areas of state government as may be necessary for receipt of federal or state funds.

(5) Participate with other states or subdivisions thereof in interstate planning.

(6) Encourage educational and research programs that further planning and provide administrative and technical services therefor.

(7) Carry out the provisions of RCW 43.62.010 through 43.62.050 relating to the state census.

~~(8) ((Carry out the provisions of this chapter and chapter 4.92 RCW relating to risk management.~~

~~(9))~~ (9) Be the official state participant in the federal-state cooperative program for local population estimates and as such certify all city and county special censuses to be considered in the allocation of state and federal revenues.

~~((40))~~ (9) Be the official state center for processing and dissemination of federal decennial or quinquennial census data in cooperation with other state agencies.

~~((41))~~ (10) Be the official state agency certifying annexations, incorporations, or disincorporations to the United States bureau of the census.

~~((42))~~ (11) Review all United States bureau of the census population estimates used for federal revenue sharing purposes and provide a liaison for local governments with the United States bureau of the census in adjusting or correcting revenue sharing population estimates.

~~((43))~~ (12) Provide fiscal notes depicting the expected fiscal impact of proposed legislation in accordance with chapter 43.88A RCW.

~~((44))~~ (13) Be the official state agency to estimate and manage the cash flow of all public funds as provided in chapter 43.88 RCW. To this end, the office shall adopt such rules as are necessary to manage the cash flow of public funds.

**Sec. 511.** 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.~~) "Department" means the department of enterprise services.

(2) "Director" means the director of (~~financial management~~) enterprise services.

(3) (~~"Risk management division")~~ "Office of risk management" means the (~~division of the office of financial management~~) office within the department of enterprise services 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 office of risk management (~~division~~).

**Sec. 512.** RCW 4.92.040 and 2002 c 332 s 11 are each amended to read as follows:

(1) No execution shall issue against the state on any judgment.

(2) Whenever a final judgment against the state is obtained in an action on a claim arising out of tortious conduct, the claim shall be paid from the liability account.

(3) Whenever a final judgment against the state shall have been obtained in any other action, the clerk of the court shall make and furnish to the office of risk management (~~division~~) a duly certified copy of such judgment; the office of risk management (~~division~~) shall thereupon audit the amount of damages and costs therein awarded, and the same shall be paid from appropriations specifically provided for such purposes by law.

(4) Final judgments for which there are no provisions in state law for payment shall be transmitted by the office of risk management (~~division~~) to the senate and house of representatives committees on ways and means as follows:

(a) On the first day of each session of the legislature, the office of risk management (~~division~~) shall transmit judgments received and audited since the adjournment of the previous session of the legislature.

(b) During each session of legislature, the office of risk management (~~division~~) shall transmit judgments immediately upon completion of audit.

(5) All claims, other than judgments, made to the legislature against the state of Washington for money or property, shall be accompanied by a statement of the facts on which such claim is based and such evidence as the claimant intends to offer in support of the claim and shall be filed with the office of risk management (~~division~~), which shall retain the same as a record. All claims of two thousand dollars or less shall be approved or rejected by the office of risk management (~~division~~), and if approved shall be paid from appropriations specifically provided for such purpose by law. Such decision, if adverse to the claimant in whole or part, shall not preclude the claimant from seeking relief from the legislature. If the claimant accepts any part of his or her claim which is approved for payment by the office of risk management (~~division~~), such acceptance shall constitute a waiver and release of the state from any further claims relating to the damage or injury asserted in the claim so accepted. The office of risk management (~~division~~) shall submit to the house and senate committees on ways and means, at the beginning of each regular session, a comprehensive list of all claims paid pursuant to this subsection during the preceding year. For all claims not approved by the office of risk management (~~division~~), the office of risk management (~~division~~) shall recommend to the legislature whether such claims should be approved or rejected. Recommendations shall be submitted to the senate and house of representatives committees on ways and means not later than the thirtieth day of each regular session of the legislature. Claims which cannot be processed for timely submission of recommendations shall be held for submission during

the following regular session of the legislature. The recommendations shall include, but not be limited to:

(a) A summary of the facts alleged in the claim, and a statement as to whether these facts can be verified by the office of risk management (~~division~~);

(b) An estimate by the office of risk management (~~division~~) of the value of the loss or damage which was alleged to have occurred;

(c) An analysis of the legal liability, if any, of the state for the alleged loss or damage; and

(d) A summary of equitable or public policy arguments which might be helpful in resolving the claim.

(6) The legislative committees to whom such claims are referred shall make a transcript, recording, or statement of the substance of the evidence given in support of such a claim. If the legislature approves a claim the same shall be paid from appropriations specifically provided for such purpose by law.

(7) Subsections (3) through (6) of this section do not apply to judgments or claims against the state housing finance commission created under chapter 43.180 RCW.

**Sec. 513.** RCW 4.92.130 and 2009 c 560 s 15 are each amended to read as follows:

A liability account in the custody of the treasurer is hereby created as a nonappropriated account to be used solely and exclusively for the payment of liability settlements and judgments against the state under 42 U.S.C. Sec. 1981 et seq. or for the tortious conduct of its officers, employees, and volunteers and all related legal defense costs.

(1) The purpose of the liability account is to: (a) Expediently pay legal liabilities and defense costs of the state resulting from tortious conduct; (b) promote risk control through a cost allocation system which recognizes agency loss experience, levels of self-retention, and levels of risk exposure; and (c) establish an actuarially sound system to pay incurred losses, within defined limits.

(2) The liability account shall be used to pay claims for injury and property damages and legal defense costs exclusive of agency-retained expenses otherwise budgeted.

(3) No money shall be paid from the liability account, except for defense costs, unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted and unless:

(a) The claim shall have been reduced to final judgment in a court of competent jurisdiction; or

(b) The claim has been approved for payment.

(4) The liability account shall be financed through annual premiums assessed to state agencies, based on sound actuarial principles, and shall be for liability coverage in excess of agency-budgeted self-retention levels.

(5) Annual premium levels shall be determined by the risk manager. An actuarial study shall be conducted to assist in determining the appropriate level of funding.

(6) Disbursements for claims from the liability account shall be made to the claimant, or to the clerk of the court for judgments, upon written request to the state treasurer from the risk manager.

(7) The director may direct agencies to transfer moneys from other funds and accounts to the liability account if premiums are delinquent.

(8) The liability account shall not exceed fifty percent of the actuarial value of the outstanding liability as determined annually by the office of risk management (~~division~~). If the account exceeds the maximum amount specified in this section, premiums may be adjusted by the office of risk management (~~division~~) in order to maintain the account balance at the maximum limits. If, after adjustment of premiums, the account balance remains above the limits specified, the excess amount shall be prorated back to the appropriate funds.



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

**Sec. 514.** RCW 4.92.150 and 2002 c 332 s 15 are each amended to read as follows:

After commencement of an action in a court of competent jurisdiction upon a claim against the state, or any of its officers, employees, or volunteers arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq., or against a foster parent that the attorney general is defending pursuant to RCW 4.92.070, or upon petition by the state, the attorney general, with the prior approval of the office of risk management (~~(division)~~) and with the approval of the court, following such testimony as the court may require, may compromise and settle the same and stipulate for judgment against the state, the affected officer, employee, volunteer, or foster parent.

**Sec. 515.** RCW 4.92.160 and 2002 c 332 s 16 are each amended to read as follows:

Payment of claims and judgments arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq. shall not be made by any agency or department of state government with the exception of the office of risk management (~~(division)~~), and that (~~(division)~~) office shall authorize and direct the payment of moneys only from the liability account whenever:

(1) The head or governing body of any agency or department of state or the designee of any such agency certifies to the office of risk management (~~(division)~~) that a claim has been settled; or

(2) The clerk of court has made and forwarded a certified copy of a final judgment in a court of competent jurisdiction and the attorney general certifies that the judgment is final and was entered in an action on a claim arising out of tortious conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. 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 state.

**Sec. 516.** RCW 4.92.210 and 2002 c 332 s 17 are each amended to read as follows:

(1) All liability claims arising out of tortious conduct or under 42 U.S.C. Sec. 1981 et seq. that the state of Washington or any of its officers, employees, or volunteers would be liable for shall be filed with the office of risk management (~~(division)~~).

(2) A centralized claim tracking system shall be maintained to provide agencies with accurate and timely data on the status of liability claims. Information in this claim file, other than the claim itself, shall be privileged and confidential.

(3) Standardized procedures shall be established for filing, reporting, processing, and adjusting claims, which includes the use of qualified claims management personnel.

(4) All claims shall be reviewed by the office of risk management (~~(division)~~) to determine an initial valuation, to delegate to the appropriate office to investigate, negotiate, compromise, and settle the claim, or to retain that responsibility on behalf of and with the assistance of the affected state agency.

(5) All claims that result in a lawsuit shall be forwarded to the attorney general's office. Thereafter the attorney general and the office of risk management (~~(division)~~) shall collaborate in the investigation, denial, or settlement of the claim.

(6) Reserves shall be established for recognizing financial liability and monitoring effectiveness. The valuation of specific claims against the state shall be privileged and confidential.

(7) All settlements shall be approved by the responsible agencies, or their designees, prior to settlement.

**Sec. 517.** RCW 4.92.270 and 2002 c 332 s 21 are each amended to read as follows:

The risk manager shall develop procedures for standard indemnification agreements for state agencies to use whenever the agency agrees to indemnify, or be indemnified by, any person or party. The risk manager shall also develop guidelines for the use of indemnification agreements by state agencies. On request of the

risk manager, an agency shall forward to the office of risk management (~~(division)~~) for review and approval any contract or agreement containing an indemnification agreement.

**Sec. 518.** RCW 4.92.280 and 1998 c 217 s 4 are each amended to read as follows:

If chapter 217, Laws of 1998 mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the (~~(office of financial management)~~) department of enterprise services.

**Sec. 519.** RCW 10.92.020 and 2008 c 224 s 2 are each amended to read as follows:

(1) Tribal police officers under subsection (2) of this section shall be recognized and authorized to act as general authority Washington peace officers. A tribal police officer recognized and authorized to act as a general authority Washington peace officer under this section has the same powers as any other general authority Washington peace officer to enforce state laws in Washington, including the power to make arrests for violations of state laws.

(2) A tribal police officer may exercise the powers of law enforcement of a general authority Washington peace officer under this section, subject to the following:

(a) The appropriate sovereign tribal nation shall submit to the (~~(office of financial management)~~) department of enterprise services proof of public liability and property damage insurance for vehicles operated by the peace officers and police professional liability insurance from a company licensed to sell insurance in the state. For purposes of determining adequacy of insurance liability, the sovereign tribal government must submit with the proof of liability insurance a copy of the interlocal agreement between the sovereign tribal government and the local governments that have shared jurisdiction under this chapter where such an agreement has been reached pursuant to subsection (10) of this section.

(i) Within the thirty days of receipt of the information from the sovereign tribal nation, the (~~(office of financial management)~~) department of enterprise services shall either approve or reject the adequacy of insurance, giving consideration to the scope of the interlocal agreement. The adequacy of insurance under this chapter shall be subject to annual review by the (~~(state office of financial management)~~) department of enterprise services.

(ii) Each policy of insurance issued under this chapter must include a provision that the insurance shall be available to satisfy settlements or judgments arising from the tortious conduct of tribal police officers when acting in the capacity of a general authority Washington peace officer, and that to the extent of policy coverage neither the sovereign tribal nation nor the insurance carrier will raise a defense of sovereign immunity to preclude an action for damages under state or federal law, the determination of fault in a civil action, or the payment of a settlement or judgment arising from the tortious conduct.

(b) The appropriate sovereign tribal nation shall submit to the (~~(office of financial management)~~) department of enterprise services proof of training requirements for each tribal police officer. To be authorized as a general authority Washington peace officer, a tribal police officer must successfully complete the requirements set forth under RCW 43.101.157. Any applicant not meeting the requirements for certification as a tribal police officer may not act as a general authority Washington peace officer under this chapter. The criminal justice training commission shall notify the (~~(office of financial management)~~) department of enterprise services if:

(i) A tribal police officer authorized under this chapter as a general authority Washington state peace officer has been decertified pursuant to RCW 43.101.157; or

(ii) An appropriate sovereign tribal government is otherwise in noncompliance with RCW 43.101.157.

(3) A copy of any citation or notice of infraction issued, or any incident report taken, by a tribal police officer acting in the capacity of a general authority Washington peace officer as authorized by this chapter must be submitted within three days to the police chief or sheriff within whose jurisdiction the action was taken. Any citation issued under this chapter shall be to a Washington court, except that any citation issued to Indians within the exterior boundaries of an Indian reservation may be cited to a tribal court. Any arrest made or citation issued not in compliance with this chapter is not enforceable.

(4) Any authorization granted under this chapter shall not in any way expand the jurisdiction of any tribal court or other tribal authority.

(5) The authority granted under this chapter shall be coextensive with the exterior boundaries of the reservation, except that an officer commissioned under this section may act as authorized under RCW 10.93.070 beyond the exterior boundaries of the reservation.

(6) For purposes of civil liability under this chapter, a tribal police officer shall not be considered an employee of the state of Washington or any local government except where a state or local government has deputized a tribal police officer as a specially commissioned officer. Neither the state of Washington and its individual employees nor any local government and its individual employees shall be liable for the authorization of tribal police officers under this chapter, nor for the negligence or other misconduct of tribal officers. The authorization of tribal police officers under this chapter shall not be deemed to have been a nondelegable duty of the state of Washington or any local government.

(7) Nothing in this chapter impairs or affects the existing status and sovereignty of those sovereign tribal governments whose traditional lands and territories lie within the borders of the state of Washington as established under the laws of the United States.

(8) Nothing in this chapter limits, impairs, or nullifies the authority of a county sheriff to appoint duly commissioned state or federally certified tribal police officers as deputy sheriffs authorized to enforce the criminal and traffic laws of the state of Washington.

(9) Nothing in this chapter limits, impairs, or otherwise affects the existing authority under state or federal law of state or local law enforcement officers to enforce state law within the exterior boundaries of an Indian reservation or to enter Indian country in fresh pursuit, as defined in RCW 10.93.120, of a person suspected of violating state law, where the officer would otherwise not have jurisdiction.

(10) An interlocal agreement pursuant to chapter 39.34 RCW is required between the sovereign tribal government and all local government law enforcement agencies that will have shared jurisdiction under this chapter prior to authorization taking effect under this chapter. Nothing in this chapter shall limit, impair, or otherwise affect the implementation of an interlocal agreement completed pursuant to chapter 39.34 RCW by July 1, 2008, between a sovereign tribal government and a local government law enforcement agency for cooperative law enforcement.

(a) Sovereign tribal governments that meet all of the requirements of subsection (2) of this section, but do not have an interlocal agreement pursuant to chapter 39.34 RCW and seek authorization under this chapter, may submit proof of liability insurance and training certification to the ~~((office of financial management))~~ department of enterprise services. Upon confirmation of receipt of the information from the ~~((office of financial management))~~ department of enterprise services, the sovereign tribal government and the local government law enforcement agencies that will have shared jurisdiction under this chapter have one year to enter into an interlocal agreement pursuant

to chapter 39.34 RCW. If the sovereign tribal government and the local government law enforcement agencies that will have shared jurisdiction under this chapter are not able to reach agreement after one year, the sovereign tribal governments and the local government law enforcement agencies shall submit to binding arbitration pursuant to chapter 7.04A RCW with the American arbitration association or successor agency for purposes of completing an agreement prior to authorization going into effect.

(b) For the purposes of (a) of this subsection, those sovereign tribal government and local government law enforcement agencies that must enter into binding arbitration shall submit to last best offer arbitration. For purposes of accepting a last best offer, the arbitrator must consider other interlocal agreements between sovereign tribal governments and local law enforcement agencies in Washington state, any model policy developed by the Washington association of sheriffs and police chiefs or successor agency, and national best practices.

**Sec. 520.** RCW 48.62.021 and 2004 c 255 s 2 are each amended to read as follows:

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

(1) "Local government entity" or "entity" 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, water-sewer districts, school districts, fire protection districts, irrigation districts, metropolitan municipal corporations, conservation districts, and other political subdivisions, governmental subdivisions, municipal corporations, and quasi-municipal corporations.

(2) "Risk assumption" means a decision to absorb the entity's financial exposure to a risk of loss without the creation of a formal program of advance funding of anticipated losses.

(3) "Self-insurance" means a formal program of advance funding and management of entity financial exposure to a risk of loss that is not transferred through the purchase of an insurance policy or contract.

(4) "Health and welfare benefits" means a plan or program established by a local government entity or entities for the purpose of providing its employees and their dependents, and in the case of school districts, its district employees, students, directors, or any of their dependents, with health care, accident, disability, death, and salary protection benefits.

(5) "Property and liability risks" includes the risk of property damage or loss sustained by a local government entity and the risk of claims arising from the tortious or negligent conduct or any error or omission of the local government entity, its officers, employees, agents, or volunteers as a result of which a claim may be made against the local government entity.

(6) "State risk manager" means the risk manager of the office of risk management ~~((division))~~ within the ~~((office of financial management))~~ department of enterprise services.

(7) "Nonprofit corporation" or "corporation" has the same meaning as defined in RCW 24.03.005(3).

**Sec. 521.** RCW 48.64.010 and 2009 c 314 s 2 are each amended to read as follows:

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

(1) "Affordable housing" means housing projects in which some of the dwelling units may be purchased or rented on a basis that is affordable to households with an income of eighty percent or less of the county median family income, adjusted for family size.

(2) "Affordable housing entity" means any of the following:

(a) A housing authority created under the laws of this state or another state and any agency or instrumentality of a housing authority including, but not limited to, a legal entity created to

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

conduct a joint self-insurance program for housing authorities that is operating in accordance with chapter 48.62 RCW;

(b) A nonprofit corporation, whether organized under the laws of this state or another state, that is engaged in providing affordable housing and is necessary for the completion, management, or operation of a project because of its access to funding sources that are not available to a housing authority, as described in this section; or

(c) A general or limited partnership or limited liability company, whether organized under the laws of this state or another state, that is engaged in providing affordable housing as defined in this section. A partnership or limited liability company may only be considered an affordable housing entity if a housing authority or nonprofit corporation, as described in this subsection, satisfies any of the following conditions: (i) It has, or has the right to acquire, a financial or ownership interest in the partnership or limited liability company; (ii) it possesses the power to direct management or policies of the partnership or limited liability company; or (iii) it has entered into a contract to lease, manage, or operate the affordable housing owned by the partnership or limited liability company.

(3) "Property and liability risks" includes the risk of property damage or loss sustained by an affordable housing entity and the risk of claims arising from the tortious or negligent conduct or any error or omission of the entity, its officers, employees, agents, or volunteers as a result of which a claim may be made against the entity.

(4) "Self-insurance" means a formal program of advance funding and management of entity financial exposure to a risk of loss that is not transferred through the purchase of an insurance policy or contract.

(5) "State risk manager" means the risk manager of the office of risk management (~~(division)~~) within the (~~office of financial management~~) department of enterprise services.

**Sec. 522.** RCW 39.29.011 and 2009 c 486 s 7 are each amended to read as follows:

All personal service contracts shall be entered into pursuant to competitive solicitation, except for:

- (1) Emergency contracts;
- (2) Sole source contracts;
- (3) Contract amendments;

(4) Contracts between a consultant and an agency of less than twenty thousand dollars. However, contracts of five thousand dollars or greater but less than twenty thousand dollars shall have documented evidence of competition, which must include agency posting of the contract opportunity on the state's common vendor registration and bid notification system. Agencies shall not structure contracts to evade these requirements; and

(5) Other specific contracts or classes or groups of contracts exempted from the competitive solicitation process by the director of the (~~office of financial management~~) department of enterprise services when it has been determined that a competitive solicitation process is not appropriate or cost-effective.

**Sec. 523.** RCW 39.29.016 and 1998 c 101 s 4 are each amended to read as follows:

Emergency contracts shall be filed with the (~~office of financial management~~) department of enterprise services and made available for public inspection within three working days following the commencement of work or execution of the contract, whichever occurs first. Documented justification for emergency contracts shall be provided to the (~~office of financial management~~) department of enterprise services when the contract is filed.

**Sec. 524.** RCW 39.29.018 and 2009 c 486 s 8 are each amended to read as follows:

(1) Sole source contracts shall be filed with the (~~office of financial management~~) department of enterprise services and made

available for public inspection at least ten working days prior to the proposed starting date of the contract. Documented justification for sole source contracts shall be provided to the (~~office of financial management~~) department of enterprise services when the contract is filed, and must include evidence that the agency posted the contract opportunity on the state's common vendor registration and bid notification system. For sole source contracts of twenty thousand dollars or more, documented justification shall also include evidence that the agency attempted to identify potential consultants by advertising through statewide or regional newspapers.

(2) The (~~office of financial management~~) department of enterprise services shall approve sole source contracts of twenty thousand dollars or more before any such contract becomes binding and before any services may be performed under the contract. These requirements shall also apply to sole source contracts of less than twenty thousand dollars if the total amount of such contracts between an agency and the same consultant is twenty thousand dollars or more within a fiscal year. Agencies shall ensure that the costs, fees, or rates negotiated in filed sole source contracts of twenty thousand dollars or more are reasonable.

**Sec. 525.** RCW 39.29.025 and 1998 c 101 s 6 are each amended to read as follows:

(1) Substantial changes in either the scope of work specified in the contract or in the scope of work specified in the formal solicitation document must generally be awarded as new contracts. Substantial changes executed by contract amendments must be submitted to the (~~office of financial management~~) department of enterprise services, and are subject to approval by the (~~office of financial management~~) department of enterprise services.

(2) An amendment or amendments to personal service contracts, if the value of the amendment or amendments, whether singly or cumulatively, exceeds fifty percent of the value of the original contract must be provided to the (~~office of financial management~~) department of enterprise services.

(3) The (~~office of financial management~~) department of enterprise services shall approve amendments provided to it under this section before the amendments become binding and before services may be performed under the amendments.

(4) The amendments must be filed with the (~~office of financial management~~) department of enterprise services and made available for public inspection at least ten working days prior to the proposed starting date of services under the amendments.

(5) The (~~office of financial management~~) department of enterprise services shall approve amendments provided to it under this section only if they meet the criteria for approval of the amendments established by the director of the (~~office of financial management~~) department of enterprise services.

**Sec. 526.** RCW 39.29.055 and 1998 c 101 s 8 are each amended to read as follows:

(1) Personal service contracts subject to competitive solicitation shall be (a) filed with the (~~office of financial management~~) department of enterprise services and made available for public inspection; and (b) reviewed and approved by the (~~office of financial management~~) department of enterprise services when those contracts provide services relating to management consulting, organizational development, marketing, communications, employee training, or employee recruiting.

(2) Personal service contracts subject to competitive solicitation that provide services relating to management consulting, organizational development, marketing, communications, employee training, or employee recruiting shall be made available for public inspection at least ten working days before the proposed starting date of the contract. All other contracts shall be effective no earlier

than the date they are filed with the ~~((office of financial management))~~ department of enterprise services.

**Sec. 527.** RCW 39.29.065 and 2009 c 486 s 9 are each amended to read as follows:

To implement this chapter, the director of the ~~((office of financial management))~~ department of enterprise services shall establish procedures for the competitive solicitation and award of personal service contracts, recordkeeping requirements, and procedures for the reporting and filing of contracts. The director shall develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of products and services by state agencies and institutions from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments. For reporting purposes, the director may establish categories for grouping of contracts. The procedures required under this section shall also include the criteria for amending personal service contracts. At the beginning of each biennium, the director may, by administrative policy, adjust the dollar thresholds prescribed in RCW 39.29.011, 39.29.018, and 39.29.040 to levels not to exceed the percentage increase in the implicit price deflator. Adjusted dollar thresholds shall be rounded to the nearest five hundred dollar increment.

**Sec. 528.** RCW 39.29.068 and 1998 c 245 s 33 and 1998 c 101 s 10 are each reenacted and amended to read as follows:

The ~~((office of financial management))~~ department of enterprise services shall maintain a publicly available list of all personal service contracts entered into by state agencies during each fiscal year. The list shall identify the contracting agency, the contractor, the purpose of the contract, effective dates and periods of performance, the cost of the contract and funding source, any modifications to the contract, and whether the contract was competitively procured or awarded on a sole source basis. The ~~((office of financial management))~~ department of enterprise services shall also ensure that state accounting definitions and procedures are consistent with RCW 39.29.006 and permit the reporting of personal services expenditures by agency and by type of service. Designations of type of services shall include, but not be limited to, management and organizational services, legal and expert witness services, financial services, computer and information services, social or technical research, marketing, communications, and employee training or recruiting services. The ~~((office of financial management))~~ department of enterprise services shall report annually to the fiscal committees of the senate and house of representatives on sole source contracts filed under this chapter. The report shall describe: (1) The number and aggregate value of contracts for each category established in this section; (2) the number and aggregate value of contracts of five thousand dollars or greater but less than twenty thousand dollars; (3) the number and aggregate value of contracts of twenty thousand dollars or greater; (4) the justification provided by agencies for the use of sole source contracts; and (5) any trends in the use of sole source contracts.

**Sec. 529.** RCW 39.29.075 and 1987 c 414 s 9 are each amended to read as follows:

As requested by the legislative auditor, the ~~((office of financial management))~~ department of enterprise services shall provide information on contracts filed under this chapter for use in preparation of summary reports on personal services contracts.

**Sec. 530.** RCW 39.29.090 and 1998 c 101 s 11 are each amended to read as follows:

Personal service contracts awarded by institutions of higher education from nonstate funds do not have to be filed in advance and approved by the ~~((office of financial management))~~ department of enterprise services. Any such contract is subject to all other requirements of this chapter, including the requirements under RCW 39.29.068 for annual reporting of personal service contracts to

the ~~((office of financial management))~~ department of enterprise services.

**Sec. 531.** RCW 39.29.100 and 2002 c 260 s 7 are each amended to read as follows:

(1) The ~~((office of financial management))~~ department of enterprise services shall adopt uniform guidelines for the effective and efficient management of personal service contracts and client service contracts by all state agencies. The guidelines must, at a minimum, include:

(a) Accounting methods, systems, measures, and principles to be used by agencies and contractors;

(b) Precontract procedures for selecting potential contractors based on their qualifications and ability to perform;

(c) Incorporation of performance measures and measurable benchmarks in contracts, and the use of performance audits;

(d) Uniform contract terms to ensure contract performance and compliance with state and federal standards;

(e) Proper payment and reimbursement methods to ensure that the state receives full value for taxpayer moneys, including cost settlements and cost allowance;

(f) Postcontract procedures, including methods for recovering improperly spent or overspent moneys for disallowance and adjustment;

(g) Adequate contract remedies and sanctions to ensure compliance;

(h) Monitoring, fund tracking, risk assessment, and auditing procedures and requirements;

(i) Financial reporting, record retention, and record access procedures and requirements;

(j) Procedures and criteria for terminating contracts for cause or otherwise; and

(k) Any other subject related to effective and efficient contract management.

(2) The ~~((office of financial management))~~ department of enterprise services shall submit the guidelines required by subsection (1) of this section to the governor and the appropriate standing committees of the legislature no later than December 1, 2002.

(3) The ~~((office of financial management))~~ department of enterprise services shall publish a guidebook for use by state agencies containing the guidelines required by subsection (1) of this section.

**Sec. 532.** RCW 39.29.110 and 2002 c 260 s 8 are each amended to read as follows:

(1) A state agency entering into or renewing personal service contracts or client service contracts shall follow the guidelines required by RCW 39.29.100.

(2) A state agency that has entered into or renewed personal service contracts or client service contracts during a calendar year shall, on or before January 1st of the following calendar year, provide the ~~((office of financial management))~~ department of enterprise services with a report detailing the procedures the agency employed in entering into, renewing, and managing the contracts.

(3) The provisions of this section apply to state agencies entering into or renewing contracts after January 1, 2003.

**Sec. 533.** RCW 39.29.120 and 2002 c 260 s 9 are each amended to read as follows:

(1) The ~~((office of financial management))~~ department of enterprise services shall provide a training course for agency personnel responsible for executing and managing personal service contracts and client service contracts. The course must contain training on effective and efficient contract management under the guidelines established under RCW 39.29.100. State agencies shall require agency employees responsible for executing or managing personal service contracts and client service contracts to complete the training course to the satisfaction of the ~~((office of financial~~

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

~~management~~) department of enterprise services. Beginning January 1, 2004, no agency employee may execute or manage personal service contracts or client service contracts unless the employee has completed the training course. Any request for exception to this requirement shall be submitted to the ~~((office of financial management))~~ department of enterprise services in writing and shall be approved by the ~~((office of financial management))~~ department of enterprise services prior to the employee executing or managing the contract.

(2)(a) The ~~((office of financial management))~~ department of enterprise services shall conduct risk-based audits of the contracting practices associated with individual personal service and client service contracts from multiple state agencies to ensure compliance with the guidelines established in RCW 39.29.110. The ~~((office of financial management))~~ department of enterprise services shall conduct the number of audits deemed appropriate by the director of the ~~((office of financial management))~~ department of enterprise services based on funding provided.

(b) The ~~((office of financial management))~~ department of enterprise services shall forward the results of the audits conducted under this section to the governor, the appropriate standing committees of the legislature, and the joint legislative audit and review committee.

**Sec. 534.** RCW 43.88.580 and 2008 c 326 s 3 are each amended to read as follows:

(1) The ~~((office of financial management))~~ department of enterprise services shall make electronically available to the public a database of state agency contracts for personal services required to be filed with the ~~((office of financial management))~~ department of enterprise services under chapter 39.29 RCW.

(2) The state expenditure information web site described in RCW 44.48.150 shall include a link to the ~~((office of financial management))~~ department of enterprise services database described in subsection (1) of this section.

**NEW SECTION. Sec. 535.** RCW 43.41.280, 43.41.290, 43.41.300, 43.41.310, 43.41.320, 43.41.330, 43.41.340, 43.41.350, and 43.41.360 are each recodified as sections in chapter 43.19 RCW.

## PART VI POWERS AND DUTIES TRANSFERRED FROM THE DEPARTMENT OF INFORMATION SERVICES

**Sec. 601.** RCW 43.105.080 and 2010 1st sp.s. c 37 s 931 are each amended to read as follows:

There is created a revolving fund to be known as the data processing revolving fund in the custody of the state treasurer. The revolving fund shall be used for the acquisition of equipment, software, supplies, and services and the payment of salaries, wages, and other costs incidental to the acquisition, development, operation, and administration of information services, telecommunications, systems, software, supplies and equipment, including the payment of principal and interest on bonds issued for capital projects, by the department, Washington State University's computer services center, the department of ~~((personnel's))~~ enterprise services' personnel information systems ~~((division, the office of financial management's))~~ group and financial systems management group, and other users as ~~((jointly))~~ determined by the ~~((department and the))~~ office of financial management. The revolving fund is subject to the allotment procedure provided under chapter 43.88 RCW. The chief information officer or the chief information officer's designee, with the approval of the technology services board, is authorized to expend up to one million dollars per fiscal biennium for the technology services board to conduct independent technical and financial analysis of proposed

information technology projects, and such an expenditure does not require an appropriation. Disbursements from the revolving fund for the services component of the department are not subject to appropriation. Disbursements for the strategic planning and policy component of the department are subject to appropriation. All disbursements from the fund are subject to the allotment procedures provided under chapter 43.88 RCW. The department shall establish and implement a billing structure to assure all agencies pay an equitable share of the costs.

During the 2009-2011 fiscal biennium, the legislature may transfer from the data processing revolving account to the state general fund such amounts as reflect the excess fund balance associated with the information technology pool.

As used in this section, the word "supplies" shall not be interpreted to delegate or abrogate the division of purchasing's responsibilities and authority to purchase supplies as described in RCW 43.19.190 and 43.19.200.

**Sec. 602.** RCW 43.105.320 and 1999 c 287 s 18 are each amended to read as follows:

The department of ~~((information))~~ enterprise services may become a licensed certification authority, under chapter 19.34 RCW, for the purpose of providing services to agencies, local governments, and other entities and persons for purposes of official state business. The department is not subject to RCW 19.34.100(1)(a). The department shall only issue certificates, as defined in RCW 19.34.020, in which the subscriber is:

(1) The state of Washington or a department, office, or agency of the state;

(2) A city, county, district, or other municipal corporation, or a department, office, or agency of the city, county, district, or municipal corporation;

(3) An agent or employee of an entity described by subsection (1) or (2) of this section, for purposes of official public business;

(4) Any other person or entity engaged in matters of official public business, however, such certificates shall be limited only to matters of official public business. The department may issue certificates to such persons or entities only if after issuing a request for proposals from certification authorities licensed under chapter 19.34 RCW and review of the submitted proposals, makes a determination that such private services are not sufficient to meet the department's published requirements. The department must set forth in writing the basis of any such determination and provide procedures for challenge of the determination as provided by the state procurement requirements; or

(5) An applicant for a license as a certification authority for the purpose of compliance with RCW 19.34.100(1)(a).

**Sec. 603.** RCW 43.105.370 and 2009 c 509 s 2 are each amended to read as follows:

(1) The broadband mapping account is established in the custody of the state treasurer. The department shall deposit into the account such funds received from legislative appropriation, federal ~~((grants authorized under the federal broadband data improvement act, P.L. 110-385, Title I))~~ funding, and donated funds from private and public sources. Expenditures from the account may be used only for the purposes of RCW 43.105.372 through 43.105.376 ~~((as recodified by this act))~~. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The department ~~((of information services))~~ is the single eligible entity in the state for purposes of the federal broadband ~~((data improvement act, P.L. 110-385, Title I))~~ mapping activities.

(3) Federal funding received by the department ~~((under the federal broadband data improvement act, P.L. 110-385, Title I))~~ for broadband mapping activities must be used in accordance with

~~((the)) any federal requirements ((of that act)) and, subject to those requirements, may be distributed by the department on a competitive basis to other entities in the state ((to achieve the purposes of that act)).~~

~~(4) The department ((of information services)) shall consult with ((the department of community, trade, and economic development or its successor agency)) the office of financial management((s)) and the utilities and transportation commission in coordinating broadband mapping activities. In carrying out any broadband mapping activities, the provisions of P.L. 110-385, Title I, regarding trade secrets, commercial or financial information, and privileged or confidential information submitted by the federal communications commission or a broadband provider are deemed to encompass the consulted agencies.~~

**Sec. 604.** RCW 43.105.372 and 2009 c 509 s 3 are each amended to read as follows:

(1) Subject to the availability of federal or state funding, the department may:

(a) Develop an interactive web site to allow residents to self-report whether high-speed internet is available at their home or residence and at what speed; and

(b) Conduct a detailed survey of all high-speed internet infrastructure owned or leased by state agencies and ~~((creating [create]))~~ create a geographic information system map of all high-speed internet infrastructure owned or leased by the state.

(2) State agencies responding to a survey request from the department under subsection (1)(b) of this section shall respond in a reasonable and timely manner, not to exceed one hundred twenty days. The department shall request of state agencies, at a minimum:

(a) The total bandwidth of high-speed internet infrastructure owned or leased;

(b) The cost of maintaining that high-speed internet infrastructure, if owned, or the price paid for the high-speed internet infrastructure, if leased; and

(c) The leasing entity, if applicable.

(3) The department may adopt rules as necessary to carry out the provisions of this section.

(4) For purposes of this section, "state agency" includes every state office, department, division, bureau, board, commission, or other state agency.

**Sec. 605.** RCW 43.105.374 and 2009 c 509 s 4 are each amended to read as follows:

(1) The department is authorized, through a competitive bidding process, to procure on behalf of the state a geographic information system map detailing high-speed internet infrastructure, service availability, and adoption. This geographic information system map may include adoption information, availability information, type of high-speed internet deployment technology, and available speed tiers for high-speed internet based on any publicly available data.

(2) The department may procure this map either by:

(a) Contracting for and purchasing a completed map or updates to a map from a third party; or

(b) Working directly with the federal communications commission to accept publicly available data.

(3) The department shall establish an accountability and oversight structure to ensure that there is transparency in the bidding and contracting process and full financial and technical accountability for any information or actions taken by a third-party contractor creating this map.

(4) In contracting for purchase of the map or updates to a map in subsection (2)(a) of this section, the department may take no action, nor impose any condition on the third party, that causes any record submitted by a public or private broadband service provider to the third party to meet the standard of a public record as defined in

RCW 42.56.010. This prohibition does not apply to any records delivered to the department by the third party as a component of the ~~((completed))~~ map. For the purpose of RCW 42.56.010~~((2))~~ (3), the purchase by the department of a completed map or updates to a map may not be deemed use or ownership by the department of the underlying information used by the third party to complete the map.

(5) Data or information that is publicly available as of July 1, 2009, will not cease to be publicly available due to any provision of chapter 509, Laws of 2009.

**Sec. 606.** RCW 43.105.376 and 2009 c 509 s 5 are each amended to read as follows:

(1) The department, in coordination with ~~((the department of community, trade, and economic development and))~~ the utilities and transportation commission, and such advisors as the department chooses, may prepare regular reports that identify the following:

(a) The geographic areas of greatest priority for the deployment of advanced telecommunications infrastructure in the state;

(b) A detailed explanation of how any amount of funding received from the federal government for the purposes of broadband mapping, deployment, and adoption will be or have been used; and

(c) A determination of how nonfederal sources may be utilized to achieve the purposes of broadband mapping, deployment, and adoption activities in the state.

(2) To the greatest extent possible, the initial report should be based upon the information identified in the geographic system maps developed under the requirements of this chapter.

(3) The initial report should be delivered to the appropriate committees of the legislature as soon as feasible, but no later than January 18, 2010.

(4) Any future reports prepared by the department based upon the requirements of subsection (1) of this section should be delivered to the appropriate committees of the legislature by January 15th of each year.

**Sec. 607.** RCW 43.105.380 and 2009 c 509 s 6 are each amended to read as follows:

The community technology opportunity program is created to support the efforts of community technology programs throughout the state. The community technology opportunity program must be administered by the department ~~((of information services))~~. The department may contract for services in order to carry out the department's obligations under this section.

(1) In implementing the community technology opportunity program the ~~((administrator))~~ director must, to the extent funds are appropriated for this purpose:

(a) Provide organizational and capacity building support to community technology programs throughout the state, and identify and facilitate the availability of other public and private sources of funds to enhance the purposes of the program and the work of community technology programs. No more than fifteen percent of funds received by the ~~((administrator))~~ director for the program may be expended on these functions;

(b) Establish a competitive grant program and provide grants to community technology programs to provide training and skill-building opportunities; access to hardware and software; internet connectivity; digital media literacy; assistance in the adoption of information and communication technologies in low-income and underserved areas of the state; and development of locally relevant content and delivery of vital services through technology.

(2) Grant applicants must:

(a) Provide evidence that the applicant is a nonprofit entity or a public entity that is working in partnership with a nonprofit entity;

(b) Define the geographic area or population to be served;

(c) Include in the application the results of a needs assessment addressing, in the geographic area or among the population to be

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

served: The impact of inadequacies in technology access or knowledge, barriers faced, and services needed;

(d) Explain in detail the strategy for addressing the needs identified and an implementation plan including objectives, tasks, and benchmarks for the applicant and the role that other organizations will play in assisting the applicant's efforts;

(e) Provide evidence of matching funds and resources, which are equivalent to at least one-quarter of the grant amount committed to the applicant's strategy;

(f) Provide evidence that funds applied for, if received, will be used to provide effective delivery of community technology services in alignment with the goals of this program and to increase the applicant's level of effort beyond the current level; and

(g) Comply with such other requirements as the ~~((administrator))~~ director establishes.

(3) The ~~((administrator))~~ director may use no more than ten percent of funds received for the community technology opportunity program to cover administrative expenses.

(4) The ~~((administrator))~~ director must establish expected program outcomes for each grant recipient and must require grant recipients to provide an annual accounting of program outcomes.

**Sec. 608.** RCW 43.105.382 and 2009 c 509 s 8 are each amended to read as follows:

The Washington community technology opportunity account is established in the state treasury. The governor or the governor's designee and the director or the director's designee shall deposit into the account federal grants to the state ~~((authorized under Division B, Title VI of the American recovery and reinvestment act of 2009)),~~ legislative appropriations, and donated funds from private and public sources for purposes related to broadband deployment and adoption, including matching funds required by the act. Donated funds from private and public sources may be deposited into the account. Expenditures from the account may be used only as matching funds for federal and other grants to fund the operation of the community technology opportunity program under this chapter, and to fund other broadband-related activities authorized in chapter 509, Laws of 2009. Only the director or the director's designee may authorize expenditures from the account.

**Sec. 609.** RCW 43.105.390 and 2009 c 509 s 9 are each amended to read as follows:

(1) The governor may take all appropriate steps to ~~((carry out the purposes of Division B, Title VI of the American recovery and reinvestment act of 2009, P.L. 111-5, and))~~ seek federal funding in order to maximize investment in broadband deployment and adoption in the state of Washington ~~((consistent with chapter 509, Laws of 2009)).~~ Such steps may include the designation of a broadband deployment and adoption coordinator; review and prioritization of grant applications by public and private entities as directed by the national telecommunications and information administration, the rural utility services, and the federal communications commission; disbursement of block grant funding; and direction to state agencies to provide staffing as necessary to carry out this section. The authority for overseeing broadband adoption and deployment efforts on behalf of the state is vested in the department.

(2) The department may apply for federal funds and other grants or donations, may deposit such funds in the Washington community technology opportunity account created in RCW 43.105.382 (as recodified by this act), may oversee implementation of federally funded or mandated broadband programs for the state and may adopt rules to administer the programs. These programs may include but are not limited to the following:

(a) Engaging in periodic statewide surveys of residents, businesses, and nonprofit organizations concerning their use and

adoption of high-speed internet, computer, and related information technology for the purpose of identifying barriers to adoption;

(b) Working with communities to identify barriers to the adoption of broadband service and related information technology services by individuals, nonprofit organizations, and businesses;

(c) Identifying broadband demand opportunities in communities by working cooperatively with local organizations, government agencies, and businesses;

(d) Creating, implementing, and administering programs to improve computer ownership, technology literacy, digital media literacy, and high-speed internet access for populations not currently served or underserved in the state. This may include programs to provide low-income families, community-based nonprofit organizations, nonprofit entities, and public entities that work in partnership with nonprofit entities to provide increased access to computers and broadband, with reduced cost internet access;

(e) Administering the community technology opportunity program under RCW 43.105.380 and 43.105.382 (as recodified by this act);

(f) Creating additional programs to spur the development of high-speed internet resources in the state;

(g) Establishing technology literacy and digital inclusion programs and establishing low-cost hardware, software, and internet purchasing programs that may include allowing participation by community technology programs in state purchasing programs; and

(h) Developing technology loan programs targeting small businesses or businesses located in unserved and underserved areas.

**Sec. 610.** RCW 43.105.400 and 2009 c 509 s 10 are each amended to read as follows:

~~((1))~~ Subject to the availability of federal or state funding, the department may ~~((reconvene the high-speed internet work group previously established by chapter 262, Laws of 2008. The work group is renamed the advisory council on digital inclusion, and is))~~ convene an advisory group ((to the department)) on digital inclusion and technology planning. The ~~((council must))~~ advisory group may include, but is not limited to, volunteer representatives from community technology organizations, telecommunications providers, higher education institutions, K-12 education institutions, public health institutions, public housing entities, and local government and other governmental entities that are engaged in community technology activities.

~~((2))~~ The council shall prepare a report by January 15th of each year and submit it to the department, the governor, and the appropriate committees of the legislature. The report must contain:

(a) An analysis of how support from public and private sector partnerships, the philanthropic community, and other not-for-profit organizations in the community, along with strong relationships with the state board for community and technical colleges, the higher education coordinating board, and higher education institutions, could establish a variety of high-speed internet access alternatives for citizens;

(b) Proposed strategies for continued broadband deployment and adoption efforts, as well as further development of advanced telecommunications applications;

(c) Recommendations on methods for maximizing the state's research and development capacity at universities and in the private sector for developing advanced telecommunications applications and services, and recommendations on incentives to stimulate the demand for and development of these applications and services;

(d) An identification of barriers that hinder the advancement of technology entrepreneurship in the state; and

(e) An evaluation of programs designed to advance digital literacy and computer access that are made available by the federal

government, local agencies, telecommunications providers, and business and charitable entities.)

**Sec. 611.** RCW 41.07.030 and 1975 1st ex.s. c 239 s 3 are each amended to read as follows:

The costs of administering, maintaining, and operating the central personnel-payroll system shall be distributed to the using state agencies. In order to insure proper and equitable distribution of costs the department of personnel shall utilize cost accounting procedures to identify all costs incurred in the administration, maintenance, and operation of the central personnel-payroll system. In order to facilitate proper and equitable distribution of costs to the using state agencies the department of personnel is authorized to utilize the data processing revolving fund created by RCW 43.105.080 (as recodified by this act) and the ((department of) personnel service fund created by RCW 41.06.280.

**Sec. 612.** RCW 43.99I.040 and 1997 c 456 s 39 are each amended to read as follows:

(1) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020(4), the state treasurer shall transfer from property taxes in the state general fund levied for this support of the common schools under RCW 84.52.065 to the general fund of the state treasury for unrestricted use the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(4).

(2) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020(5), the state treasurer shall transfer from higher education operating fees deposited in the general fund to the general fund of the state treasury for unrestricted use, or if chapter 231, Laws of 1992 (Senate Bill No. 6285) becomes law and changes the disposition of higher education operating fees from the general fund to another account, the state treasurer shall transfer the proportional share from the University of Washington operating fees account, the Washington State University operating fees account, and the Central Washington University operating fees account the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(6).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020(6), the state treasurer shall transfer from the data processing revolving fund created in RCW 43.105.080 (as recodified by this act) to the general fund of the state treasury the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(6).

(4) On each date on which any interest or principal and interest payment is due on bonds issued for the purpose of RCW 43.99I.020(7), the Washington state dairy products commission shall cause the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(7) to be paid out of the commission's general operating fund to the state treasurer for deposit into the general fund of the state treasury.

(5) The higher education operating fee accounts for the University of Washington, Washington State University, and Central Washington University established by chapter 231, Laws of 1992 and repealed by chapter 18, Laws of 1993 1st sp. sess. are reestablished in the state treasury for purposes of fulfilling debt service reimbursement transfers to the general fund required by bond resolutions and covenants for bonds issued for purposes of RCW 43.99I.020(5).

(6) For bonds issued for purposes of RCW 43.99I.020(5), on each date on which any interest or principal and interest payment is due, the board of regents or board of trustees of the University of Washington, Washington State University, or Central Washington University shall cause the amount as determined by the state treasurer to be paid out of the local operating fee account for deposit

by the universities into the state treasury higher education operating fee accounts. The state treasurer shall transfer the proportional share from the University of Washington operating fees account, the Washington State University operating fees account, and the Central Washington University operating fees account the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(6) to reimburse the general fund.

**NEW SECTION. Sec. 613.** The following acts or parts of acts are each repealed:

(1) RCW 43.105.300 (Education in use of technology encouraged) and 1996 c 171 s 14; and

(2) RCW 43.105.360 (Web directory--Public community technology programs) and 2008 c 262 s 5.

**NEW SECTION. Sec. 614.** RCW 43.105.080, 43.105.320, and 43.105.410 are each recodified as sections in chapter 43.19 RCW.

**NEW SECTION. Sec. 615.** RCW 43.105.370, 43.105.372, 43.105.374, 43.105.376, 43.105.380, 43.105.382, 43.105.390, and 43.105.400 are each recodified as sections in chapter 43.330 RCW.

## PART VII CREATING THE OFFICE OF CHIEF INFORMATION OFFICER

**NEW SECTION. Sec. 701.** Information technology is a tool used by state agencies to improve their ability to deliver public services efficiently and effectively. Advances in information technology - including advances in hardware, software, and business processes for implementing and managing these resources - offer new opportunities to improve the level of support provided to citizens and state agencies and to reduce the per-transaction cost of these services. These advances are one component in the process of reengineering how government delivers services to citizens.

To fully realize the service improvements and cost efficiency from the effective application of information technology to its business processes, state government must establish decision-making structures that connect business processes and information technology in an operating model. Many of these business practices transcend individual agency processes and should be worked at the enterprise level. To do this requires an effective partnership of executive management, business processes owners, and providers of support functions necessary to efficiently and effectively deliver services to citizens.

To maximize the potential for information technology to contribute to government business process reengineering the state must establish clear central authority to plan, set enterprise standards, and provide project oversight and management analysis of the various aspects of a business process.

Establishing the office of chief information officer and partnering it with the director of financial management will provide state government with the cohesive structure necessary to develop improved operating models with agency directors and reengineer business process to enhance service delivery while capturing savings.

**NEW SECTION. Sec. 702.** (1) The office of the chief information officer is created within the office of financial management.

(2) Powers, duties, and functions assigned to the department of information services as specified in this chapter shall be transferred to the office of chief information officer as provided in this chapter.

(3) The primary duties of the office are:

(a) To prepare and lead the implementation of a strategic direction and enterprise architecture for information technology for state government;

(b) To enable the standardization and consolidation of information technology infrastructure across all state agencies to



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

support enterprise-based system development and improve and maintain service delivery;

(c) To establish standards and policies for the consistent and efficient operation of information technology services throughout state government;

(d) To establish statewide enterprise architecture that will serve as the organizing standard for information technology for state agencies;

(e) Educate and inform state managers and policymakers on technological developments, industry trends and best practices, industry benchmarks that strengthen decision making and professional development, and industry understanding for public managers and decision makers.

(4) In the case of institutions of higher education, the powers of the office and the provisions of this chapter apply to business and administrative applications but do not apply to (a) academic and research applications; and (b) medical, clinical, and health care applications, including the business and administrative applications for such operations. However, institutions of higher education must disclose to the office any proposed academic applications that are enterprise-wide in nature relative to the needs and interests of other institutions of higher education.

(5) The legislature and the judiciary, which are constitutionally recognized as separate branches of government, are strongly encouraged to coordinate with the office and participate in shared services initiatives and the development of enterprise-based strategies, where appropriate.

**NEW SECTION. Sec. 703.** (1) The executive head and appointing authority of the office is the chief information officer. The chief information officer shall be appointed by the governor, subject to confirmation by the senate. The chief information officer shall serve at the pleasure of the governor. The chief information officer shall be paid a salary fixed by the governor. If a vacancy occurs in the position of chief information officer while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he or she shall present to that body his or her nomination for the position.

(2) The chief information officer may employ staff members, some of whom may be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter, and such other duties as may be authorized by law. The chief information officer may delegate any power or duty vested in him or her by this chapter or other law.

(3) The internal affairs of the office shall be under the control of the chief information officer in order that the chief information officer may manage the office in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the chief information officer shall have complete charge and supervisory powers over the office. The chief information officer may create such administrative structures as the chief information officer deems appropriate, except as otherwise specified by law, and the chief information officer may employ staff members as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law.

**NEW SECTION. Sec. 704.** The chief information officer shall:

(1) Supervise and administer the activities of the office of chief information officer;

(2) Exercise all the powers and perform all the duties prescribed by law with respect to the administration of this chapter including:

(a) Appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed by this chapter; and

(b) Report to the governor any matters relating to abuses and evasions of this chapter.

(3) In addition to other powers and duties granted, the chief information officer has the following powers and duties:

(a) Enter into contracts on behalf of the state to carry out the purposes of this chapter;

(b) Accept and expend gifts and grants that are related to the purposes of this chapter, whether such grants be of federal or other funds;

(c) Apply for grants from public and private entities, and receive and administer any grant funding received for the purpose and intent of this chapter;

(d) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(e) Delegate powers, duties, and functions as the chief information officer deems necessary for efficient administration, but the chief information officer shall be responsible for the official acts of the officers and employees of the office; and

(f) Perform other duties as are necessary and consistent with law.

**NEW SECTION. Sec. 705.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Backbone network" means the shared high-density portions of the state's telecommunications transmission facilities. It includes specially conditioned high-speed communications carrier lines, multiplexors, switches associated with such communications lines, and any equipment and software components necessary for management and control of the backbone network.

(2) "Board" means the technology services board.

(3) "Committee" means the state interoperability executive committee.

(4) "Educational sectors" means those institutions of higher education, school districts, and educational service districts that use the network for distance education, data transmission, and other uses permitted by the board.

(5) "Enterprise architecture" means an ongoing program for translating business vision and strategy into effective enterprise change. It is a continuous activity. Enterprise architecture creates, communicates, and improves the key principles and models that describe the enterprise's future state and enable its evolution.

(6) "Equipment" means the machines, devices, and transmission facilities used in information processing, including but not limited to computers, terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment.

(7) "Information" includes, but is not limited to, data, text, voice, and video.

(8) "Information technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.

(9) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments.

(10) "K-20 network" means the network established in section 718 of this act.

(11) "Local governments" includes all municipal and quasi-municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately.

(12) "Office" means the office of the chief information officer.

(13) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications.

(14) "Proprietary software" means that software offered for sale or license.

(15) "State agency" or "agency" means every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official.

(16) "Telecommunications" includes, but is not limited to, wireless or wired systems for transport of voice, video, and data communications, network systems, requisite facilities, equipment, system controls, simulation, electronic commerce, and all related interactions between people and machines. "Telecommunications" does not include public safety communications.

### STANDARDS AND POLICIES

**NEW SECTION. Sec. 706.** (1) The chief information officer shall establish standards and policies to govern information technology in the state of Washington.

(2) The office shall have the following powers and duties related to information services:

(a) To develop statewide standards and policies governing the acquisition and disposition of equipment, software, and personal and purchased services, licensing of the radio spectrum by or on behalf of state agencies, and confidentiality of computerized data;

(b) To develop statewide or interagency technical policies, standards, and procedures;

(c) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services;

(d) To develop a detailed business plan for any service or activity to be contracted under RCW 41.06.142(7)(b) by the consolidated technology services agency;

(e) To provide direction concerning strategic planning goals and objectives for the state. The office shall seek input from the legislature and the judiciary; and

(f) To establish policies for the periodic review by the office of agency performance which may include but are not limited to analysis of:

(i) Planning, management, control, and use of information services;

(ii) Training and education; and

(iii) Project management.

(3) Statewide technical standards to promote and facilitate electronic information sharing and access are an essential component of acceptable and reliable public access service and complement content-related standards designed to meet those goals. The office shall:

(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems, including wireless communications systems; and

(b) Require agencies to include an evaluation of electronic public access needs when planning new information systems or major upgrades of systems.

In developing these standards, the office is encouraged to include the state library, state archives, and appropriate representatives of state and local government.

(4) The office shall perform other matters and things necessary to carry out the purposes and provisions of this chapter.

### STRATEGIC PLANNING

**NEW SECTION. Sec. 707.** (1) The office shall prepare a state strategic information technology plan which shall establish a statewide mission, goals, and objectives for the use of information technology, including goals for electronic access to government records, information, and services. The plan shall be developed in accordance with the standards and policies established by the office. The office shall seek the advice of the board in the development of this plan.

The plan shall be updated as necessary and submitted to the governor and the legislature.

(2) The office shall prepare a biennial state performance report on information technology based on agency performance reports required under section 710 of this act and other information deemed appropriate by the office. The report shall include, but not be limited to:

(a) An analysis, based upon agency portfolios, of the state's information technology infrastructure, including its value, condition, and capacity;

(b) An evaluation of performance relating to information technology;

(c) An assessment of progress made toward implementing the state strategic information technology plan, including progress toward electronic access to public information and enabling citizens to have two-way access to public records, information, and services; and

(d) An analysis of the success or failure, feasibility, progress, costs, and timeliness of implementation of major information technology projects under section 712 of this act. At a minimum, the portion of the report regarding major technology projects must include:

(i) The total cost data for the entire life-cycle of the project, including capital and operational costs, broken down by staffing costs, contracted service, hardware purchase or lease, software purchase or lease, travel, and training. The original budget must also be shown for comparison;

(ii) The original proposed project schedule and the final actual project schedule;

(iii) Data regarding progress towards meeting the original goals and performance measures of the project;

(iv) Discussion of lessons learned on the project, performance of any contractors used, and reasons for project delays or cost increases; and

(v) Identification of benefits generated by major information technology projects developed under section 712 of this act.

Copies of the report shall be distributed biennially to the governor and the legislature. The major technology section of the report must examine major information technology projects completed in the previous biennium.

### PORTFOLIO MANAGEMENT

**NEW SECTION. Sec. 708.** Management of information technology across state government requires managing resources and business processes across multiple agencies. It is no longer sufficient to pursue efficiencies within agency or individual business process boundaries. The state must manage the business process changes and information technology in support of business processes as a statewide portfolio. The chief information officer will use agency information technology portfolio planning as input to develop a statewide portfolio to guide resource allocation and prioritization decisions.

**NEW SECTION. Sec. 709.** An agency information technology portfolio shall serve as the basis for making information technology decisions and plans which may include, but are not limited to:

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(1) System refurbishment, acquisitions, and development efforts;

(2) Setting goals and objectives for using information technology;

(3) Assessments of information processing performance, resources, and capabilities;

(4) Ensuring the appropriate transfer of technological expertise for the operation of new systems developed using external resources;

(5) Guiding new investment demand, prioritization, selection, performance, and asset value of technology and telecommunications; and

(6) Progress toward providing electronic access to public information.

**NEW SECTION. Sec. 710.** (1) Each agency shall develop an information technology portfolio consistent with RCW 43.105.172 (as recodified by this act). The superintendent of public instruction shall develop its portfolio in conjunction with educational service districts and statewide or regional providers of K-12 education information technology services.

(2) Agency portfolios shall include, but not be limited to, the following:

(a) A baseline assessment of the agency's information technology resources and capabilities that will serve as the benchmark for subsequent planning and performance measures;

(b) A statement of the agency's mission, goals, and objectives for information technology, including goals and objectives for achieving electronic access to agency records, information, and services;

(c) An explanation of how the agency's mission, goals, and objectives for information technology support and conform to the state strategic information technology plan developed under section 707 of this act;

(d) An implementation strategy to provide electronic access to public records and information. This implementation strategy must be assembled to include:

(i) Compliance with Title 40 RCW;

(ii) Adequate public notice and opportunity for comment;

(iii) Consideration of a variety of electronic technologies, including those that help transcend geographic locations, standard business hours, economic conditions of users, and disabilities;

(iv) Methods to educate both state employees and the public in the effective use of access technologies;

(e) Projects and resources required to meet the objectives of the portfolio; and

(f) Where feasible, estimated schedules and funding required to implement identified projects.

(3) Portfolios developed under subsection (1) of this section shall be submitted to the office for review and approval. The chief information officer may reject, require modification to, or approve portfolios as deemed appropriate. Portfolios submitted under this subsection shall be updated and submitted for review and approval as necessary.

(4) Each agency shall prepare and submit to the office a biennial performance report that evaluates progress toward the objectives articulated in its information technology portfolio and the strategic priorities of the state. The superintendent of public instruction shall develop its portfolio in conjunction with educational service districts and statewide or regional providers of K-12 education information technology services. The report shall include:

(a) An evaluation of the agency's performance relating to information technology;

(b) An assessment of progress made toward implementing the agency information technology portfolio;

(c) Progress toward electronic access to public information and enabling citizens to have two-way interaction for obtaining information and services from agencies; and

(d) An inventory of agency information services, equipment, and proprietary software.

(5) The office shall establish standards, elements, form, and format for plans and reports developed under this section.

(6) Agency activities to increase electronic access to public records and information, as required by this section, must be implemented within available resources and existing agency planning processes.

(7) The office may exempt any agency from any or all of the requirements of this section.

## BUDGET REVIEW

**NEW SECTION. Sec. 711.** (1) At the request of the director of financial management, the office shall evaluate both state agency information technology current spending and technology budget requests, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The office shall submit recommendations for funding all or part of such requests to the director of financial management. The office shall also submit recommendations regarding consolidation and coordination of similar proposals or other efficiencies it finds in reviewing proposals.

(2) The office shall establish criteria, consistent with portfolio-based information technology management, for the evaluation of agency budget requests under this section. Technology budget requests shall be evaluated in the context of the state's information technology portfolio; technology initiatives underlying budget requests are subject to review by the office. Criteria shall include, but not be limited to: Feasibility of the proposed projects, consistency with the state strategic information technology plan and the state enterprise architecture, consistency with information technology portfolios, appropriate provision for public electronic access to information, evidence of business process streamlining and gathering of business and technical requirements, services, duration of investment, costs, and benefits.

## PROJECT MANAGEMENT OVERSIGHT

**NEW SECTION. Sec. 712.** (1) The office shall establish standards and policies governing the planning, implementation, and evaluation of major information technology projects, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The standards and policies shall:

(a) Establish criteria to identify projects which are subject to this section. Such criteria shall include, but not be limited to, significant anticipated cost, complexity, or statewide significance of the project; and

(b) Establish a model process and procedures which state agencies shall follow in developing and implementing projects within their information technology portfolios. This process may include project oversight experts or panels, as appropriate. Agencies may propose, for approval by the office, a process and procedures unique to the agency. The office may accept or require modification of such agency proposals or the office may reject such agency proposals and require use of the model process and procedures established under this subsection. Any process and procedures developed under this subsection shall require (i) distinct and identifiable phases upon which funding may be based, (ii) user

validation of products through system demonstrations and testing of prototypes and deliverables, and (iii) other elements identified by the office.

The chief information officer may suspend or terminate a major project, and direct that the project funds be placed into unallotted reserve status, if the chief information officer determines that the project is not meeting or is not expected to meet anticipated performance standards.

(2) The office of financial management shall establish policies and standards consistent with portfolio-based information technology management to govern the funding of projects developed under this section. The policies and standards shall provide for:

(a) Funding of a project under terms and conditions mutually agreed to by the chief information officer, the director of financial management, and the head of the agency proposing the project. However, the office of financial management may require incremental funding of a project on a phase-by-phase basis whereby funds for a given phase of a project may be released only when the office of financial management determines, with the advice of the office, that the previous phase is satisfactorily completed; and

(b) Other elements deemed necessary by the office of financial management.

**NEW SECTION. Sec. 713.** (1) Prior to making a commitment to purchase, acquire, or develop a major information technology project or service, state agencies must provide a proposal to the office outlining the business case of the proposed product or service, including the upfront and ongoing cost of the proposal.

(2) Within sixty days of receipt of a proposal, the office shall approve the proposal, reject it, or propose modifications.

(3) In reviewing a proposal, the office must determine whether the product or service is consistent with:

(a) The standards and policies developed by the office pursuant to section 706 of this act; and

(b) The state's enterprise-based strategy.

(4) If a substantially similar product or service is offered by the consolidated technology services agency established in RCW 43.105.047, the office may require the agency to procure the product or service through the consolidated technology services agency, if doing so would benefit the state as an enterprise.

(5) The office shall provide guidance to agencies as to what threshold of information technology spending constitutes a major information technology product or service under this section.

## ENTERPRISE ARCHITECTURE

**NEW SECTION. Sec. 714.** (1) The office shall develop an enterprise-based strategy for information technology in state government informed by portfolio management planning and information technology expenditure information collected from state agencies pursuant to RCW 43.88.092.

(2)(a) The office shall develop an ongoing enterprise architecture program for translating business vision and strategy into effective enterprise change. This program will create, communicate, and improve the key principles and models that describe the enterprise's future state and enable its evolution, in keeping with the priorities of government and the information technology strategic plan.

(b) The enterprise architecture program will facilitate business process collaboration among agencies statewide; improving the reliability, interoperability, and sustainability of the business processes that state agencies use.

In developing an enterprise-based strategy for the state, the office is encouraged to consider the following strategies as possible opportunities for achieving greater efficiency:

(i) Developing evaluation criteria for deciding which common enterprise-wide business processes should become managed as enterprise services;

(ii) Developing a roadmap of priorities for creating enterprise services;

(iii) Developing decision criteria for determining implementation criteria for centralized or decentralized enterprise services;

(iv) Developing evaluation criteria for deciding which technology investments to continue, hold, or drop; and

(v) Performing such other duties as may be assigned by the office to promote effective enterprise change.

(c) The program will establish performance measurement criteria for each of its initiatives; will measure the success of those initiatives; and will assess its quarterly results with the chief information officer to determine whether to continue, revise, or disband the initiative.

## ADVISORY BOARD--CREATION AND DUTIES

**NEW SECTION. Sec. 715.** The technology services board is created within the office of the chief information officer.

(1) The board shall be composed of thirteen members. Six members shall be appointed by the governor, three of whom shall be representatives of state agencies or institutions, and three of whom shall be representatives of the private sector. Of the state agency representatives, at least one of the representatives must have direct experience using the software projects overseen by the board or reasonably expect to use the new software developed under the oversight of the board. Two members shall represent the house of representatives and shall be selected by the speaker of the house of representatives with one representative chosen from each major caucus of the house of representatives; two members shall represent the senate and shall be appointed by the president of the senate with one representative chosen from each major caucus of the senate. One member shall be the chief information officer who shall be a voting member of the board and serve as chair. Two nonvoting members with information technology expertise must be appointed by the governor as follows:

(a) One member representing state agency bargaining units shall be selected from a list of three names submitted by each of the general government exclusive bargaining representatives; and

(b) One member representing local governments shall be selected from a list of three names submitted by commonly recognized local government organizations.

The governor may reject all recommendations and request new recommendations.

(2) Of the initial members, three must be appointed for a one-year term, three must be appointed for a two-year term, and four must be appointed for a three-year term. Thereafter, members must be appointed for three-year terms.

(3) Vacancies shall be filled in the same manner that the original appointments were made for the remainder of the member's term.

(4) Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The office shall provide staff support to the board.

**NEW SECTION. Sec. 716.** The board shall have the following powers and duties related to information services:

(1) To review and approve standards and procedures, developed by the office of the chief information officer, governing the acquisition and disposition of equipment, proprietary software, and purchased services, licensing of the radio spectrum by or on behalf of state agencies, and confidentiality of computerized data;

(2) To review and approve statewide or interagency technical policies, standards, and procedures developed by the office of the chief information officer;

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(3) To review, approve, and provide oversight of major information technology projects to ensure that no major information technology project proposed by a state agency is approved or authorized funding by the board without consideration of the technical and financial business case for the project, including a review of:

(a) The total cost of ownership across the life of the project;

(b) All major technical options and alternatives analyzed, and reviewed, if necessary, by independent technical sources; and

(c) Whether the project is technically and financially justifiable when compared against the state's enterprise-based strategy, long-term technology trends, and existing or potential partnerships with private providers or vendors;

(4) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services, and to assure the cost-effective development and incremental implementation of a statewide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local government; and the general public through public affairs programming;

(5) To develop a policy to determine whether a proposed project, product, or service should undergo an independent technical and financial analysis prior to submitting a request to the office of financial management for the inclusion in any proposed operating, capital, or transportation budget;

(6) To approve contracting for services and activities under RCW 41.06.142(7) for the consolidated technology service agency. To approve any service or activity to be contracted under RCW 41.06.142(7)(b), the board must also review the proposed business plan and recommendation submitted by the office;

(7) To consider, on an ongoing basis, ways to promote strategic investments in enterprise-level information technology projects that will result in service improvements and cost efficiency;

(8) To provide a forum to solicit external expertise and perspective on developments in information technology, enterprise architecture, standards, and policy development; and

(9) To provide a forum where ideas and issues related to information technology plans, policies, and standards can be reviewed.

#### **INTEROPERABILITY COMMITTEE--TRANSFER FROM DEPARTMENT OF INFORMATION SERVICES**

NEW SECTION. **Sec. 717.** (1) The chief information officer shall appoint a state interoperability executive committee, the membership of which must include, but not be limited to, representatives of the military department, the Washington state patrol, the department of transportation, the office of the chief information officer, the department of natural resources, city and county governments, state and local fire chiefs, police chiefs, and sheriffs, and state and local emergency management directors. The chair and legislative members of the board will serve as nonvoting ex officio members of the committee. Voting membership may not exceed fifteen members.

(2) The chief information officer shall appoint the chair of the committee from among the voting members of the committee.

(3) The state interoperability executive committee has the following responsibilities:

(a) Develop policies and make recommendations to the office for technical standards for state wireless radio communications

systems, including emergency communications systems. The standards must address, among other things, the interoperability of systems, taking into account both existing and future systems and technologies;

(b) Coordinate and manage on behalf of the office the licensing and use of state-designated and state-licensed radio frequencies, including the spectrum used for public safety and emergency communications, and serve as the point of contact with the federal communications commission on matters relating to allocation, use, and licensing of radio spectrum;

(c) Coordinate the purchasing of all state wireless radio communications system equipment to ensure that:

(i) After the transition from a radio over internet protocol network, any new trunked system shall be, at a minimum, project-25;

(ii) Any new system that requires advanced digital features shall be, at a minimum, project-25; and

(iii) Any new system or equipment purchases shall be, at a minimum, upgradable to project-25;

(d) Seek support, including possible federal or other funding, for state-sponsored wireless communications systems;

(e) Develop recommendations for legislation that may be required to promote interoperability of state wireless communications systems;

(f) Foster cooperation and coordination among public safety and emergency response organizations;

(g) Work with wireless communications groups and associations to ensure interoperability among all public safety and emergency response wireless communications systems; and

(h) Perform such other duties as may be assigned by the office to promote interoperability of wireless communications systems.

(4) The office shall provide administrative support to the committee.

#### **K-20 GOVERNANCE AND OPERATIONS OVERSIGHT--TRANSFER FROM DEPARTMENT OF INFORMATION SERVICES**

NEW SECTION. **Sec. 718.** (1) The office has the duty to govern and oversee the technical design, implementation, and operation of the K-20 network including, but not limited to, the following duties: Establishment and implementation of K-20 network technical policy, including technical standards and conditions of use; review and approval of network design; and resolving user/provider disputes.

(2) The office has the following powers and duties:

(a) In cooperation with the educational sectors and other interested parties, to establish goals and measurable objectives for the network;

(b) To ensure that the goals and measurable objectives of the network are the basis for any decisions or recommendations regarding the technical development and operation of the network;

(c) To adopt, modify, and implement policies to facilitate network development, operation, and expansion. Such policies may include but need not be limited to the following issues: Quality of educational services; access to the network by recognized organizations and accredited institutions that deliver educational programming, including public libraries; prioritization of programming within limited resources; prioritization of access to the system and the sharing of technological advances; network security; identification and evaluation of emerging technologies for delivery of educational programs; future expansion or redirection of the system; network fee structures; and costs for the development and operation of the network;

(d) To prepare and submit to the governor and the legislature a coordinated budget for network development, operation, and expansion. The budget shall include the chief information officer's recommendations on (i) any state funding requested for network transport and equipment, distance education facilities and hardware or software specific to the use of the network, and proposed new network end sites, (ii) annual copayments to be charged to public educational sector institutions and other public entities connected to the network, and (iii) charges to nongovernmental entities connected to the network;

(e) To adopt and monitor the implementation of a methodology to evaluate the effectiveness of the network in achieving the educational goals and measurable objectives;

(f) To establish by rule acceptable use policies governing user eligibility for participation in the K-20 network, acceptable uses of network resources, and procedures for enforcement of such policies. The office shall set forth appropriate procedures for enforcement of acceptable use policies, that may include suspension of network connections and removal of shared equipment for violations of network conditions or policies. The office shall have sole responsibility for the implementation of enforcement procedures relating to technical conditions of use.

**NEW SECTION. Sec. 719.** The office shall maintain, in consultation with the K-20 network users, the K-20 operations cooperative, which shall be responsible for day-to-day network management, technical network status monitoring, technical problem response coordination, and other duties as agreed to by the office and the educational sectors. Funding for the K-20 operations cooperative shall be provided from the education technology revolving fund under RCW 43.105.835 (as recodified by this act).

**NEW SECTION. Sec. 720.** The chief information officer, in conjunction with the K-20 network users, shall maintain a technical plan of the K-20 telecommunications system and ongoing system enhancements. The office shall ensure that the technical plan adheres to the goals and objectives established under section 706 of this act. The technical plan shall provide for:

(1) A telecommunications backbone connecting educational service districts, the main campuses of public baccalaureate institutions, the branch campuses of public research institutions, and the main campuses of community colleges and technical colleges.

(2)(a) Connection to the K-20 network by entities that include, but need not be limited to: School districts, public higher education off-campus and extension centers, and branch campuses of community colleges and technical colleges, as prioritized by the chief information officer; (b) distance education facilities and components for entities listed in this subsection and subsection (1) of this section; and (c) connection for independent nonprofit institutions of higher education, provided that:

(i) The chief information officer and each independent nonprofit institution of higher education to be connected agree in writing to terms and conditions of connectivity. The terms and conditions shall ensure, among other things, that the provision of K-20 services does not violate Article VIII, section 5 of the state Constitution and that the institution shall adhere to K-20 network policies; and

(ii) The chief information officer determines that inclusion of the independent nonprofit institutions of higher education will not significantly affect the network's eligibility for federal universal service fund discounts or subsidies.

(3) Subsequent phases may include, but need not be limited to, connections to public libraries, state and local governments, community resource centers, and the private sector.

**NEW SECTION. Sec. 721.** (1) In overseeing the technical aspects of the K-20 network, the office is not intended to duplicate the statutory responsibilities of the higher education coordinating board, the superintendent of public instruction, the state librarian, or the governing boards of the institutions of higher education.

(2) The office may not interfere in any curriculum or legally offered programming offered over the K-20 network.

(3) The responsibility to review and approve standards and common specifications for the K-20 network remains the responsibility of the office under section 706 of this act.

(4) The coordination of telecommunications planning for the common schools remains the responsibility of the superintendent of public instruction. Except as set forth in section 706(2)(f) of this act, the office may recommend, but not require, revisions to the superintendent's telecommunications plans.

**Sec. 722.** RCW 43.105.835 and 2004 c 276 s 910 are each amended to read as follows:

(1) The education technology revolving fund is created in the custody of the state treasurer. All receipts from billings under subsection (2) of this section must be deposited in the revolving fund. Only the ~~((director of the department of information services or the director's designee))~~ chief information officer or the chief information officer's designee may authorize expenditures from the fund. The revolving fund shall be used to pay for K-20 network operations, transport, equipment, software, supplies, and services, maintenance and depreciation of on-site data, and shared infrastructure, and other costs incidental to the development, operation, and administration of shared educational information technology services, telecommunications, and systems. The revolving fund shall not be used for the acquisition, maintenance, or operations of local telecommunications infrastructure or the maintenance or depreciation of on-premises video equipment specific to a particular institution or group of institutions.

(2) The revolving fund and all disbursements from the revolving fund are subject to the allotment procedure under chapter 43.88 RCW, but an appropriation is not required for expenditures. The ~~((department of information services))~~ office shall, ~~((in consultation with entities connected to the network under RCW 43.105.820 and))~~ subject to the review and approval of the office of financial management, establish and implement a billing structure for network services identified in subsection (1) of this section.

(3) The ~~((department))~~ office shall charge those public entities connected to the K-20 ~~((telecommunications [telecommunication system] under RCW 43.105.820))~~ telecommunications system under section 720 of this act an annual copayment per unit of transport connection as determined by the legislature after consideration of the ~~((K-20))~~ board's recommendations. This copayment shall be deposited into the revolving fund to be used for the purposes in subsection (1) of this section. It is the intent of the legislature to appropriate to the revolving fund such moneys as necessary to cover the costs for transport, maintenance, and depreciation of data equipment located at the individual public institutions, maintenance and depreciation of the K-20 network backbone, and services provided to the network under ~~((RCW 43.105.815-~~

~~—(4) During the 2003-05 biennium, the legislature may transfer moneys from the education technology revolving fund to the state general fund and the data processing revolving fund such amounts as reflect the excess fund balance of the account))~~ section 718 of this act.

#### GENERAL PROVISIONS RELATED TO OFFICE OF CHIEF INFORMATION OFFICER

**NEW SECTION. Sec. 723.** A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions under RCW 41.06.070, the provisions of this chapter do not apply in the office of the chief information officer to the chief information officer, the chief information officer's confidential secretary, assistant directors, and

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

any other exempt staff members provided for in section 703 of this act.

**Sec. 724.** RCW 43.105.290 and 1996 c 171 s 13 are each amended to read as follows:

The state library, with the assistance of the (~~department of information services~~) office and the state archives, shall establish a pilot project to design and test an electronic information locator system, allowing members of the public to locate and access electronic public records. In designing the system, the following factors shall be considered: (1) Ease of operation by citizens; (2) access through multiple technologies, such as direct dial and toll-free numbers, kiosks, and the internet; (3) compatibility with private online services; and (4) capability of expanding the electronic public records included in the system. The pilot project may restrict the type and quality of electronic public records that are included in the system to test the feasibility of making electronic public records and information widely available to the public.

**Sec. 725.** RCW 28A.650.015 and 2009 c 556 s 17 are each amended to read as follows:

(1) The superintendent of public instruction, to the extent funds are appropriated, shall develop and implement a Washington state K-12 education technology plan. The technology plan shall be updated on at least a biennial basis, shall be developed to coordinate and expand the use of education technology in the common schools of the state. The plan shall be consistent with applicable provisions of chapter 43.105 RCW. The plan, at a minimum, shall address:

(a) The provision of technical assistance to schools and school districts for the planning, implementation, and training of staff in the use of technology in curricular and administrative functions;

(b) The continued development of a network to connect school districts, institutions of higher learning, and other sources of online information; and

(c) Methods to equitably increase the use of education technology by students and school personnel throughout the state.

(2) The superintendent of public instruction shall appoint an educational technology advisory committee to assist in the development and implementation of the technology plan in subsection (1) of this section. The committee shall include, but is not limited to, persons representing: The (~~department of information services~~) office of the chief information officer, educational service districts, school directors, school administrators, school principals, teachers, classified staff, higher education faculty, parents, students, business, labor, scientists and mathematicians, the higher education coordinating board, the workforce training and education coordinating board, and the state library.

(3) The plan adopted and implemented under this section may not impose on school districts any requirements that are not specifically required by federal law or regulation, including requirements to maintain eligibility for the federal schools and libraries program of the universal service fund.

**Sec. 726.** RCW 39.94.040 and 2010 1st sp.s. c 36 s 6015 and 2010 1st sp.s. c 35 s 406 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 28B.10.022, the state may not enter into any financing contract for itself if the aggregate principal amount payable thereunder is greater than an amount to be established from time to time by the state finance committee or participate in a program providing for the issuance of certificates of participation, including any contract for credit enhancement, without the prior approval of the state finance committee. Except as provided in RCW 28B.10.022, the state finance committee shall approve the form of all financing contracts or a standard format for all financing contracts. The state finance committee also may:

(a) Consolidate existing or potential financing contracts into master financing contracts with respect to property acquired by one

or more agencies, departments, instrumentalities of the state, the state board for community and technical colleges, or a state institution of higher learning; or to be acquired by another agency;

(b) Approve programs providing for the issuance of certificates of participation in master financing contracts for the state or for other agencies;

(c) Enter into agreements with trustees relating to master financing contracts; and

(d) Make appropriate rules for the performance of its duties under this chapter.

(2) In the performance of its duties under this chapter, the state finance committee may consult with representatives from the department of general administration, the office of financial management, and the (~~department of information services~~) office of the chief information officer.

(3) With the approval of the state finance committee, the state also may enter into agreements with trustees relating to financing contracts and the issuance of certificates of participation.

(4) Except for financing contracts for real property used for the purposes described under chapter 28B.140 RCW, the state may not enter into any financing contract for real property of the state without prior approval of the legislature. For the purposes of this requirement, a financing contract must be treated as used for real property if it is being entered into by the state for the acquisition of land; the acquisition of an existing building; the construction of a new building; or a major remodeling, renovation, rehabilitation, or rebuilding of an existing building. Prior approval of the legislature is not required under this chapter for a financing contract entered into by the state under this chapter for energy conservation improvements to existing buildings where such improvements include: (a) Fixtures and equipment that are not part of a major remodeling, renovation, rehabilitation, or rebuilding of the building, or (b) other improvements to the building that are being performed for the primary purpose of energy conservation. Such energy conservation improvements must be determined eligible for financing under this chapter by the office of financial management in accordance with financing guidelines established by the state treasurer, and are to be treated as personal property for the purposes of this chapter.

(5) The state may not enter into any financing contract on behalf of another agency without the approval of such a financing contract by the governing body of the other agency.

**Sec. 727.** RCW 40.14.020 and 2002 c 358 s 4 are each amended to read as follows:

All public records shall be and remain the property of the state of Washington. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed, only in accordance with the provisions of this chapter. In order to insure the proper management and safeguarding of public records, the division of archives and records management is established in the office of the secretary of state. The state archivist, who shall administer the division and have reasonable access to all public records, wherever kept, for purposes of information, surveying, or cataloguing, shall undertake the following functions, duties, and responsibilities:

(1) To manage the archives of the state of Washington;

(2) To centralize the archives of the state of Washington, to make them available for reference and scholarship, and to insure their proper preservation;

(3) To inspect, inventory, catalog, and arrange retention and transfer schedules on all record files of all state departments and other agencies of state government;

(4) To insure the maintenance and security of all state public records and to establish safeguards against unauthorized removal or destruction;

(5) To establish and operate such state record centers as may from time to time be authorized by appropriation, for the purpose of preserving, servicing, screening and protecting all state public records which must be preserved temporarily or permanently, but which need not be retained in office space and equipment;

(6) To adopt rules under chapter 34.05 RCW:

(a) Setting standards for the durability and permanence of public records maintained by state and local agencies;

(b) Governing procedures for the creation, maintenance, transmission, cataloging, indexing, storage, or reproduction of photographic, optical, electronic, or other images of public documents or records in a manner consistent with current standards, policies, and procedures of the ~~((department of information services))~~ office of the chief information officer for the acquisition of information technology;

(c) Governing the accuracy and durability of, and facilitating access to, photographic, optical, electronic, or other images used as public records; or

(d) To carry out any other provision of this chapter;

(7) To gather and disseminate to interested agencies information on all phases of records management and current practices, methods, procedures, techniques, and devices for efficient and economical management and preservation of records;

(8) To operate a central microfilming bureau which will microfilm, at cost, records approved for filming by the head of the office of origin and the archivist; to approve microfilming projects undertaken by state departments and all other agencies of state government; and to maintain proper standards for this work;

(9) To maintain necessary facilities for the review of records approved for destruction and for their economical disposition by sale or burning; directly to supervise such destruction of public records as shall be authorized by the terms of this chapter;

(10) To assist and train state and local agencies in the proper methods of creating, maintaining, cataloging, indexing, transmitting, storing, and reproducing photographic, optical, electronic, or other images used as public records;

(11) To solicit, accept, and expend donations as provided in RCW 43.07.037 for the purpose of the archive program. These purposes include, but are not limited to, acquisition, accession, interpretation, and display of archival materials. Donations that do not meet the criteria of the archive program may not be accepted.

**Sec. 728.** RCW 42.17.460 and 1999 c 401 s 1 are each amended to read as follows:

It is the intent of the legislature to ensure that the commission provide the general public timely access to all contribution and expenditure reports submitted by candidates, continuing political committees, bona fide political parties, lobbyists, and lobbyists' employers. The legislature finds that failure to meet goals for full and timely disclosure threatens to undermine our electoral process.

Furthermore, the legislature intends for the commission to consult with the ~~((department of information services))~~ office of the chief information officer as it seeks to implement chapter 401, Laws of 1999, and that the commission follow the standards and procedures established by the ~~((department of information services))~~ office of the chief information officer in chapter 43.105 RCW as they relate to information technology.

**Sec. 729.** RCW 42.17.467 and 1999 c 401 s 5 are each amended to read as follows:

In preparing the information technology plan, the commission shall consult with affected state agencies, the ~~((department of information services))~~ office of the chief information officer, and stakeholders in the commission's work, including representatives of

political committees, bona fide political parties, news media, and the general public.

**Sec. 730.** RCW 42.17.469 and 1999 c 401 s 6 are each amended to read as follows:

The commission shall submit the information technology plan to the senate and house of representatives fiscal committees, the governor, the senate state and local government committee, the house of representatives state government committee, and the ~~((department of information services))~~ office of the chief information officer by February 1, 2000. It is the intent of the legislature that the commission thereafter comply with the requirements of chapter 43.105 RCW with respect to preparation and submission of biennial performance reports on the commission's information technology.

**Sec. 731.** RCW 42.17.471 and 1999 c 401 s 7 are each amended to read as follows:

The commission shall prepare and submit to the ~~((department of information services))~~ office of the chief information officer a biennial performance report ~~((in accordance with chapter 43.105 RCW))~~.

The report must include:

(1) An evaluation of the agency's performance relating to information technology;

(2) An assessment of progress made toward implementing the agency information technology plan;

(3) An analysis of the commission's performance measures, set forth in RCW 42.17.463, that relate to the electronic filing of reports and timely public access to those reports via the commission's web site;

(4) A comprehensive description of the methods by which citizens may interact with the agency in order to obtain information and services from the commission; and

(5) An inventory of agency information services, equipment, and proprietary software.

**Sec. 732.** RCW 42.17A.060 and 1999 c 401 s 1 are each amended to read as follows:

It is the intent of the legislature to ensure that the commission provide the general public timely access to all contribution and expenditure reports submitted by candidates, continuing political committees, bona fide political parties, lobbyists, and lobbyists' employers. The legislature finds that failure to meet goals for full and timely disclosure threatens to undermine our electoral process.

Furthermore, the legislature intends for the commission to consult with the ~~((department of information services))~~ office of the chief information officer as it seeks to implement chapter 401, Laws of 1999, and that the commission follow the standards and procedures established by the ~~((department of information services))~~ office of the chief information officer in chapter 43.105 RCW as they relate to information technology.

**Sec. 733.** RCW 43.88.092 and 2010 c 282 s 3 are each amended to read as follows:

(1) As part of the biennial budget process, the office of financial management shall collect from agencies, and agencies shall provide, information to produce reports, summaries, and budget detail sufficient to allow review, analysis, and documentation of all current and proposed expenditures for information technology by state agencies. Information technology budget detail must be included as part of the budget submittal documentation required pursuant to RCW 43.88.030.

(2) The office of financial management must collect, and present as part of the biennial budget documentation, information for all existing information technology projects as defined by information services board policy. The office of financial management must work with the ~~((department of information services))~~ office of the chief information officer to maximize the ability to draw this information from the information technology



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

portfolio management data collected by the department of information services pursuant to RCW 43.105.170. Connecting project information collected through the portfolio management process with financial data developed under subsection (1) of this section provides transparency regarding expenditure data for existing technology projects.

(3) The biennial budget documentation submitted by the office of financial management pursuant to RCW 43.88.030 must include an information technology plan and a technology budget for the state identifying current baseline funding for information technology, proposed (~~large~~) and ongoing major information technology projects, and their associated costs. This plan and technology budget must be presented using a method similar to the capital budget, identifying project costs through stages of the project and across fiscal periods and biennia from project initiation to implementation. This information must be submitted electronically, in a format to be determined by the office of financial management and the legislative evaluation and accountability program committee.

(4) The office of financial management shall also institute a method of accounting for information technology-related expenditures, including creating common definitions for what constitutes an information technology investment.

(5) For the purposes of this section, "major information technology projects" includes projects that have a significant anticipated cost, complexity, or are of statewide significance, such as enterprise-level solutions, enterprise resource planning, and shared services initiatives.

**Sec. 734.** RCW 43.105.410 and 2010 c 282 s 2 are each amended to read as follows:

(1) State agencies that are purchasing wireless devices or services must make such purchases through the state master contract, unless the state agency provides to the office of (~~financial management~~) the chief information officer evidence that the state agency is securing its wireless devices or services from another source for a lower cost than through participation in the state master contract.

(2) For the purposes of this section, "state agency" means any office, department, board, commission, or other unit of state government, but does not include a unit of state government headed by a statewide elected official, an institution of higher education as defined in RCW 28B.10.016, the higher education coordinating board, the state board for community and technical colleges, or agencies of the legislative or judicial branches of state government.

### STATE DATA CENTER

**NEW SECTION. Sec. 735.** (1) Except as provided by subsection (2) of this section, state agencies shall locate all existing and new servers in the state data center.

(2) Agencies with a service requirement that requires servers to be located outside the state data center must receive a waiver from the office. Waivers must be based upon written justification from the requesting agency citing specific service or performance requirements for locating servers outside the state's common platform.

(3) The office, in consultation with the office of financial management, shall continue to develop the business plan and migration schedule for moving all state agencies into the state data center.

(4) The legislature and the judiciary, which are constitutionally recognized as separate branches of government, may enter into an interagency agreement with the office to migrate its servers into the state data center.

(5) This section does not apply to institutions of higher education.

### MIGRATION TO A CENTRAL SERVICE PROVIDER

**NEW SECTION. Sec. 736.** (1) The office shall conduct a needs assessment and develop a migration strategy to ensure that, over time, all state agencies are moving towards using the consolidated technology services agency established in RCW 43.105.047 as their central service provider for all utility-based infrastructure services, including centralized PC and infrastructure support. Agency specific application services shall remain managed within individual agencies.

(2) The office shall develop short-term and long-term objectives as part of the migration strategy.

(3) For the purposes of this section, "utility-based infrastructure services" includes personal computer and portable device support, servers and server administration, security administration, network administration, telephony, e-mail, and other information technology services commonly utilized by state agencies.

(4) This section does not apply to institutions of higher education.

### PART VIII

#### CREATING THE CONSOLIDATED TECHNOLOGY SERVICES AGENCY

**NEW SECTION. Sec. 801.** A new section is added to chapter 43.105 RCW to read as follows:

To achieve maximum benefit from advances in information technology the state establishes a centralized provider and procurer of certain information technology services as an agency to support the needs of state agencies. This agency shall be known as the consolidated technology services agency. To ensure maximum benefit to the state, state agencies shall rely on the consolidated technology services agency for those services with a business case of broad use, uniformity, scalability, and price sensitivity to aggregation and volume.

To successfully meet agency needs and meet its obligation as the primary service provider for these services, the consolidated technology services agency must offer high quality services at the lowest possible price. It must be able to attract an adaptable and competitive workforce, be authorized to procure services where the business case justifies it, and be accountable to its customers for the efficient and effective delivery of critical business services.

The consolidated technology services agency is established as an agency in state government. The agency is established with clear accountability to the agencies it serves and to the public. This accountability will come through enhanced transparency in the agency's operation and performance. The agency is also established with broad flexibility to adapt its operations and service catalog to address the needs of customer agencies, and to do so in the most cost-effective ways.

**Sec. 802.** RCW 43.105.020 and 2010 1st sp.s. c 7 s 64 are each amended to read as follows:

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

(1) ("Administrator" means the community technology opportunity program administrator designated by the department.

(2) "Backbone network" means the shared high-density portions of the state's telecommunications transmission facilities. It includes specially conditioned high-speed communications carrier lines, multiplexors, switches associated with such communications lines, and any equipment and software components necessary for management and control of the backbone network.

(3) "Board" means the information services board.

(4) "Broadband" means a high-speed, high capacity transmission medium, using land-based, satellite, wireless, or any other mechanism, that can carry either signals or transmit data, or both, over long distances by using a wide range of frequencies.

(5) "Committee" means the state interoperability executive committee.

(6) "Common vendor registration and bid notification system" has the definition in RCW 39.29.006.

(7) "Community technology programs" means programs that are engaged in diffusing information and communications technology in local communities, particularly in unserved and underserved areas of the state. These programs may include, but are not limited to, programs that provide education and skill-building opportunities, hardware and software, internet connectivity, digital media literacy, development of locally relevant content, and delivery of vital services through technology.

(8) "Council" means the advisory council on digital inclusion created in RCW 43.105.400.

(9) "Department" means the department of information services.

(10)) "Agency" means the consolidated technology services agency.

(2) "Customer agencies" means all entities that purchase or use information technology resources, telecommunications, or services from the consolidated technology services agency.

(3) "Director" means the director of the ((department)) consolidated technology services agency.

((11) "Educational sectors" means those institutions of higher education, school districts, and educational service districts that use the network for distance education, data transmission, and other uses permitted by the K-20 board.

(12)) (4) "Equipment" means the machines, devices, and transmission facilities used in information processing ((such as)) including but not limited to computers, ((word processors.)) terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment.

((13) "High-speed internet" means broadband.

(14) "Information" includes, but is not limited to, data, text, voice, and video.

(15) "Information processing" means the electronic capture, collection, storage, manipulation, transmission, retrieval, and presentation of information in the form of data, text, voice, or image and includes telecommunications and office automation functions.

(16) "Information services" means data processing, telecommunications, office automation, and computerized information systems.

(17)) (5) "Enterprise architecture" means an ongoing program for translating business vision and strategy into effective enterprise change. It is a continuous activity. Enterprise architecture creates, communicates, and improves the key principles and models that describe the enterprise's future state and enable its evolution.

(6) "Information technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.

(7) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments.

((18) "K-20 network" means the network established in RCW 43.105.820.

~~—((19))~~ (8) "Local governments" includes all municipal and quasi municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately.

~~((20))~~ (9) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications.

~~((21))~~ (10) "Proprietary software" means that software offered for sale or license.

~~((22) "Purchased services" means services provided by a vendor to accomplish routine, continuing, and necessary functions. This term includes, but is not limited to, services acquired for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software installation and maintenance, telecommunications installation and maintenance, data entry, keypunch services, programming services, and computer time-sharing.~~

~~(23) "Small business" has the definition in RCW 39.29.006.~~

~~(24) "Telecommunications" means the transmission of information by wire, radio, optical cable, electromagnetic, or other means.~~

~~(25) "Video telecommunications" means the electronic interconnection of two or more sites for the purpose of transmitting and/or receiving visual and associated audio information. Video telecommunications shall not include existing public television broadcast stations as currently designated by the department of commerce under chapter 43.330 RCW.)~~ (11) "Telecommunications" includes, but is not limited to, wireless or wired systems for transport of voice, video, and data communications, network systems, requisite facilities, equipment, system controls, simulation, electronic commerce, and all related interactions between people and machines. "Telecommunications" does not include public safety communications.

**Sec. 803.** RCW 43.105.047 and 1999 c 80 s 5 are each amended to read as follows:

There is created the ~~((department of information services))~~ consolidated technology services agency, an agency of state government. The ~~((department))~~ agency shall be headed by a director appointed by the governor with the consent of the senate. The director shall serve at the governor's pleasure and shall receive such salary as determined by the governor. The director shall:

(1) Appoint a confidential secretary and such deputy and assistant directors as needed to administer the ~~((department))~~ agency; and

(2) ~~((Maintain and fund a strategic planning and policy component separate from the services component of the department;~~

(3) Appoint, after consulting with the board, the assistant or deputy director for the planning component;

(4)) Appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed by this chapter(;

(5) Report to the governor and the board any matters relating to abuses and evasions of this chapter; and

(6) Recommend statutory changes to the governor and the board)).

**Sec. 804.** RCW 43.105.052 and 2010 1st sp.s. c 7 s 16 are each amended to read as follows:

The ~~((department))~~ agency shall:

(1) ~~((Perform all duties and responsibilities the board delegates to the department, including but not limited to:~~

(a) The review of agency information technology portfolios and related requests; and

(b) Implementation of statewide and interagency policies, standards, and guidelines;

(2)) Make available information services to ~~((state))~~ public agencies ((and local governments)) and public benefit nonprofit

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

corporations ((on a full cost-recovery basis)). For the purposes of this section "public agency" means any agency of this state or another state; any political subdivision, or unit of local government of this state or another state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts; any agency of the United States; and any Indian tribe recognized as such by the federal government and "public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03.005 that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or political subdivision of another state(. These services may include, but are not limited to:

- (a) Telecommunications services for voice, data, and video;
- (b) Mainframe computing services;
- (c) Support for departmental and microcomputer evaluation, installation, and use;
- (d) Equipment acquisition assistance, including leasing, brokering, and establishing master contracts;
- (e) Facilities management services for information technology equipment, equipment repair, and maintenance service;
- (f) Negotiation with local cable companies and local governments to provide for connection to local cable services to allow for access to these public and educational channels in the state;
- (g) Office automation services;
- (h) System development services; and
- (i) Training.

These services are for discretionary use by customers and customers may elect other alternatives for service if those alternatives are more cost-effective or provide better service. Agencies may be required to use the backbone network portions of the telecommunications services during an initial start-up period not to exceed three years);

~~((3))~~ (2) Establish rates and fees for services provided by the ~~((department to assure that the services component of the department is self-supporting))~~ agency. A billing rate plan shall be developed for a two-year period to coincide with the budgeting process. The rate plan shall be subject to review at least annually by the office of financial management. The rate plan shall show the proposed rates by each cost center and will show the components of the rate structure as mutually determined by the ~~((department))~~ agency and the office of financial management. ~~((The same rate structure will apply to all user agencies of each cost center.))~~ The rate plan and any adjustments to rates shall be approved by the office of financial management ~~((The services component shall not subsidize the operations of the strategic planning and policy component));~~

~~((4))~~ (3) With the advice of the ~~((information services))~~ board and customer agencies, develop a state strategic information technology plan and performance reports as required under ~~((RCW 43.105.160))~~ section 707 of this act;

~~((5))~~ (4) Develop plans for the ~~((department's))~~ agency's achievement of statewide goals and objectives set forth in the state strategic information technology plan required under ~~((RCW 43.105.160. These plans shall address such services as telecommunications, central and distributed computing, local area networks, office automation, and end user computing. The department shall seek the advice of the board in the development of these plans;~~

~~((6) Under direction of the information services board and in collaboration with the department of personnel, and other agencies as may be appropriate, develop training plans and coordinate training programs that are responsive to the needs of agencies;~~

~~((7) Identify opportunities for the effective use of information services and coordinate appropriate responses to those~~

~~opportunities;~~

~~((8) Assess agencies' projects, acquisitions, plans, information technology portfolios, or overall information processing performance as requested by the board, agencies, the director of financial management, or the legislature. Agencies may be required to reimburse the department for agency requested reviews))~~ section 707 of this act;

((9) Develop planning, budgeting, and expenditure reporting requirements, in conjunction with the office of financial management, for agencies to follow;

(10) Assist the office of financial management with budgetary and policy review of agency plans for information services;

(11) Provide staff support from the strategic planning and policy component to the board for:

- (a) Meeting preparation, notices, and minutes;
- (b) Promulgation of policies, standards, and guidelines adopted by the board;
- (c) Supervision of studies and reports requested by the board;
- (d) Conducting reviews and assessments as directed by the board;

(12) Be the lead agency in coordinating video telecommunications services for all state agencies and develop, pursuant to board policies, standards and common specifications for leased and purchased telecommunications equipment. The department shall not evaluate the merits of school curriculum, higher education course offerings, or other education and training programs proposed for transmission and/or reception using video telecommunications resources. Nothing in this section shall abrogate or abridge the legal responsibilities of licensees of telecommunication facilities as licensed by the federal communication commission on March 27, 1990;)) and

~~((43))~~ (5) Perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

**Sec. 805.** RCW 43.19.190 and 2002 c 200 s 3 are each amended to read as follows:

The director of general administration, through the state purchasing and material control director, shall:

(1) Establish and staff such administrative organizational units within the division of purchasing as may be necessary for effective administration of the provisions of RCW 43.19.190 through 43.19.1939;

(2) Purchase all material, supplies, services, and equipment needed for the support, maintenance, and use of all state institutions, colleges, community colleges, technical colleges, college districts, and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state: PROVIDED, That the provisions of RCW 43.19.190 through 43.19.1937 do not apply in any manner to the operation of the state legislature except as requested by the legislature: PROVIDED, That the provisions of this section and RCW 43.19.1901 through 43.19.1925 do not apply to the acquisition and disposition of equipment, proprietary software, and information technology purchased services by the consolidated technology services agency created in RCW 43.105.047: PROVIDED, That any agency may purchase material, supplies, services, and equipment for which the agency has notified the purchasing and material control director that it is more cost-effective for the agency to make the purchase directly from the vendor: PROVIDED, That primary authority for the purchase of specialized equipment, instructional, and research material for their own use shall rest with the colleges, community colleges, and universities: PROVIDED FURTHER, That universities operating hospitals and the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care

programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations: PROVIDED FURTHER, That primary authority for the purchase of materials, supplies, and equipment for resale to other than public agencies shall rest with the state agency concerned: PROVIDED FURTHER, That authority to purchase services as included herein does not apply to personal services as defined in chapter 39.29 RCW, unless such organization specifically requests assistance from the division of purchasing in obtaining personal services and resources are available within the division to provide such assistance: PROVIDED FURTHER, That the authority for the purchase of insurance and bonds shall rest with the risk manager under RCW ((43.19.1935) 43.41.310: PROVIDED FURTHER, That, except for the authority of the risk manager to purchase insurance and bonds, the director is not required to provide purchasing services for institutions of higher education that choose to exercise independent purchasing authority under RCW 28B.10.029: PROVIDED FURTHER, That the authority to purchase interpreter services and interpreter brokerage services on behalf of limited-English speaking or sensory-impaired applicants and recipients of public assistance shall rest with the department of social and health services;

(3) Have authority to delegate to state agencies authorization to purchase or sell, which authorization shall specify restrictions as to dollar amount or to specific types of material, equipment, services, and supplies. Acceptance of the purchasing authorization by a state agency does not relieve such agency from conformance with other sections of RCW 43.19.190 through 43.19.1939, or from policies established by the director. Also, delegation of such authorization to a state agency, including an educational institution to which this section applies, to purchase or sell material, equipment, services, and supplies shall not be granted, or otherwise continued under a previous authorization, if such agency is not in substantial compliance with overall state purchasing and material control policies as established herein;

(4) Contract for the testing of material, supplies, and equipment with public and private agencies as necessary and advisable to protect the interests of the state;

(5) Prescribe the manner of inspecting all deliveries of supplies, materials, and equipment purchased through the division;

(6) Prescribe the manner in which supplies, materials, and equipment purchased through the division shall be delivered, stored, and distributed;

(7) Provide for the maintenance of a catalogue library, manufacturers' and wholesalers' lists, and current market information;

(8) Provide for a commodity classification system and may, in addition, provide for the adoption of standard specifications;

(9) Provide for the maintenance of inventory records of supplies, materials, and other property;

(10) Prepare rules and regulations governing the relationship and procedures between the division of purchasing and state agencies and vendors;

(11) Publish procedures and guidelines for compliance by all state agencies, including those educational institutions to which this section applies, which implement overall state purchasing and material control policies;

(12) Advise state agencies, including educational institutions, regarding compliance with established purchasing and material control policies under existing statutes.

**NEW SECTION. Sec. 806.** A new section is added to chapter 43.105 RCW to read as follows:

The director shall set performance targets and approve plans for achieving measurable and specific goals for the agency. By January 2012, the appropriate organizational performance and accountability measures and performance targets shall be submitted to the governor. These measures and targets shall include measures of performance demonstrating specific and measurable improvements related to service delivery and costs, operational efficiencies, and overall customer satisfaction. The agency shall develop a dashboard of key performance measures that will be updated quarterly and made available on the agency public web site.

The director shall report to the governor on agency performance at least quarterly. The reports shall be included on the agency's web site and accessible to the public.

**Sec. 807.** RCW 43.105.057 and 1992 c 20 s 11 are each amended to read as follows:

The ((department of information services and the information services board, respectively)) agency shall adopt rules as necessary under chapter 34.05 RCW to implement the provisions of this chapter.

**Sec. 808.** RCW 43.105.060 and 1987 c 504 s 10 are each amended to read as follows:

State and local government agencies are authorized to enter into any contracts with the ((department or its successor)) agency which may be necessary or desirable to effectuate the purposes and policies of this chapter or for maximum utilization of facilities and services which are the subject of this chapter.

**Sec. 809.** RCW 19.34.231 and 1999 c 287 s 12 are each amended to read as follows:

(1) If a signature of a unit of state or local government, including its appropriate officers or employees, is required by statute, administrative rule, court rule, or requirement of the office of financial management, that unit of state or local government shall become a subscriber to a certificate issued by a licensed certification authority for purposes of conducting official public business with electronic records.

(2) A city or county may become a licensed certification authority under RCW 19.34.100 for purposes of providing services to local government, if authorized by ordinance adopted by the city or county legislative authority.

(3) A unit of state government, except the secretary ((and the department of information services)), may not act as a certification authority.

**Sec. 810.** RCW 19.34.420 and 1998 c 33 s 2 are each amended to read as follows:

(1) The following information, when in the possession of the secretary ((the department of information services,)) or the state auditor for purposes of this chapter, shall not be made available for public disclosure, inspection, or copying, unless the request is made under an order of a court of competent jurisdiction based upon an express written finding that the need for the information outweighs any reason for maintaining the privacy and confidentiality of the information or records:

(a) A trade secret, as defined by RCW 19.108.010; and

(b) Information regarding design, security, or programming of a computer system used for purposes of licensing or operating a certification authority or repository under this chapter.

(2) The state auditor, or an authorized agent, must be given access to all information referred to in subsection (1) of this section for the purpose of conducting audits under this chapter or under other law, but shall not make that information available for public inspection or copying except as provided in subsection (1) of this section.

**Sec. 811.** RCW 46.20.157 and 1999 c 6 s 21 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the department shall annually provide to the ((department of

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

~~information services~~) consolidated technology services agency an electronic data file. The data file must:

(a) Contain information on all licensed drivers and identicaid holders who are eighteen years of age or older and whose records have not expired for more than two years;

(b) Be provided at no charge; and

(c) Contain the following information on each such person: Full name, date of birth, residence address including county, sex, and most recent date of application, renewal, replacement, or change of driver's license or identicaid.

(2) Before complying with subsection (1) of this section, the department shall remove from the file the names of any certified participants in the Washington state address confidentiality program under chapter 40.24 RCW that have been identified to the department by the secretary of state.

**Sec. 812.** RCW 2.36.054 and 1993 c 408 s 3 are each amended to read as follows:

Unless otherwise specified by rule of the supreme court, the jury source list and master jury list for each county shall be created as provided by this section.

(1) The superior court of each county, after consultation with the county clerk and county auditor of that jurisdiction, shall annually notify the ~~((department of information services))~~ consolidated technology services agency not later than March 1 of each year of its election to use either a jury source list that is merged by the county or a jury source list that is merged by the ~~((department of information services))~~ consolidated technology services agency. The ~~((department of information services))~~ consolidated technology services agency shall annually furnish at no charge to the superior court of each county a separate list of the registered voters residing in that county as supplied annually by the secretary of state and a separate list of driver's license and identicaid holders residing in that county as supplied annually by the department of licensing, or a merged list of all such persons residing in that county, in accordance with the annual notification required by this subsection. The lists provided by the ~~((department of information services))~~ consolidated technology services agency shall be in an electronic format mutually agreed upon by the superior court requesting it and the department of information services. The annual merger of the list of registered voters residing in each county with the list of licensed drivers and identicaid holders residing in each county to form a jury source list for each county shall be in accordance with the standards and methodology established in this chapter or by superseding court rule whether the merger is accomplished by the ~~((department of information services))~~ consolidated technology services agency or by a county.

(2) Persons on the lists of registered voters and driver's license and identicaid holders shall be identified by a minimum of last name, first name, middle initial where available, date of birth, gender, and county of residence. Identifying information shall be used when merging the lists to ensure to the extent reasonably possible that persons are only listed once on the merged list. Conflicts in addresses are to be resolved by using the most recent record by date of last vote in a general election, date of driver's license or identicaid address change or date of voter registration.

(3) The ~~((department of information services))~~ consolidated technology services agency shall provide counties that elect to receive a jury source list merged by ~~((department of information services))~~ the consolidated technology services agency with a list of names which are possible duplicates that cannot be resolved based on the identifying information required under subsection (2) of this section. If a possible duplication cannot subsequently be resolved satisfactorily through reasonable efforts by the county receiving the merged list, the possible duplicate name shall be stricken from the jury source list until the next annual jury source list is prepared.

**Sec. 813.** RCW 29A.08.760 and 2009 c 369 s 35 are each amended to read as follows:

The secretary of state shall provide a duplicate copy of the master statewide computer file or electronic data file of registered voters to the ~~((department of information services))~~ consolidated technology services agency for purposes of creating the jury source list without cost. Restrictions as to the commercial use of the information on the statewide computer tape or data file of registered voters, and penalties for its misuse, shall be the same as provided in RCW 29A.08.720 and 29A.08.740.

**Sec. 814.** RCW 43.63A.550 and 1998 c 245 s 71 are each amended to read as follows:

(1) The department shall assist in the process of inventorying and collecting data on public and private land for the acquisition of data describing land uses, demographics, infrastructure, critical areas, transportation corridors physical features, housing, and other information useful in managing growth throughout the state. For this purpose the department ~~((shall))~~ may contract with the ~~((department of information services))~~ consolidated technology services agency and shall form an advisory group consisting of representatives from state, local, and federal agencies, colleges and universities, and private firms with expertise in land planning, and geographic information systems.

(2) The department shall establish a sequence for acquiring data, giving priority to rapidly growing areas. The data shall be retained in a manner to facilitate its use in preparing maps, aggregating with data from multiple jurisdictions, and comparing changes over time. Data shall further be retained in a manner which permits its access via computer.

(3) The department shall work with other state agencies, local governments, and private organizations that are inventorying public and private lands to ensure close coordination and to ensure that duplication of efforts does not occur.

**NEW SECTION. Sec. 815.** (1) The state auditor shall complete a two-part performance audit of the consolidated state data center. The first part of the performance audit may include, but is not limited to:

(a) A review of the business case developed prior to the state entering into financial agreements for the consolidated state data center, including an assessment of:

(i) The methodology used to determine the requisite size and scale of the project;

(ii) The cost assumptions developed as part of the business case for building a data center in Thurston county as compared to building a data center in other locations in the state;

(iii) To what extent private sector alternatives were considered; and

(iv) An assessment of the decision-making process leading up to the decision to enter into financial agreements for the consolidated state data center, including who made the decision to pursue the consolidated state data center over other alternatives; and

(b) A review of the timeline under which milestone decisions were made regarding the consolidated state data center.

(2) The first part of the performance audit conducted under this section will be used to inform the second part of the performance audit conducted under section 816 of this act. The full two-part performance audit must be completed and submitted to the governor and the legislature by December 1, 2012.

**NEW SECTION. Sec. 816.** (1) Upon completion of the first part of a two-part performance audit of the consolidated state data center as outlined under section 815 of this act, the state auditor shall complete the second part of the performance audit. The second part of the performance audit may include, but is not limited to, a technical and financial assessment of the current business plan developed for the consolidated state data center, which may include:

(a) A detailed comparison of the consolidated state data center business plan with business plans developed for state data centers in other states;

(b) The costs associated with transitioning to, and operating, the consolidated state data center, including analysis of the fixed lease costs, the up-front transition costs, and the ongoing maintenance and operation costs;

(c) The potential budgetary impacts on the general fund in the short and long term;

(d) The predictability of the cost of occupying the consolidated state data center for state agencies;

(e) The risks associated with transitioning to the consolidated state data center, including the possibility of service interruptions, cost overruns, and other unforeseen costs;

(f) The potential return on investment for state taxpayers, including the future value of the consolidated state data center once the state has paid the lease costs in full; and

(g) A review of the business and financial viability of the state receiving revenue from leasing equipment or excess capacity, or both, in data halls 3 and 4 of the consolidated state data center.

(2) The full performance audit must be completed and submitted to the governor and the legislature by December 1, 2012.

### PART IX EDUCATION RESEARCH AND DATA CENTER

**Sec. 901.** RCW 43.41.400 and 2009 c 548 s 201 are each amended to read as follows:

((1)) An education data center shall be established in the office of financial management. The education data center shall jointly, with the legislative evaluation and accountability program committee, conduct collaborative analyses of early learning, K-12, and higher education programs and education issues across the P-20 system, which includes the department of early learning, the superintendent of public instruction, the professional educator standards board, the state board of education, the state board for community and technical colleges, the workforce training and education coordinating board, the higher education coordinating board, public and private nonprofit four-year institutions of higher education, and the employment security department. The education data center shall conduct collaborative analyses under this section with the legislative evaluation and accountability program committee and provide data electronically to the legislative evaluation and accountability program committee, to the extent permitted by state and federal confidentiality requirements. The education data center shall be considered an authorized representative of the state educational agencies in this section under applicable federal and state statutes for purposes of accessing and compiling student record data for research purposes.

(2) The education data center shall:

(a) In consultation with the legislative evaluation and accountability program committee and the agencies and organizations participating in the education data center, identify the critical research and policy questions that are intended to be addressed by the education data center and the data needed to address the questions;

(b) Coordinate with other state education agencies to compile and analyze education data, including data on student demographics that is disaggregated by distinct ethnic categories within racial subgroups, and complete P-20 research projects;

(c) Collaborate with the legislative evaluation and accountability program committee and the education and fiscal committees of the legislature in identifying the data to be compiled and analyzed to ensure that legislative interests are served;

(d) Annually provide to the K-12 data governance group a list of data elements and data quality improvements that are necessary to

answer the research and policy questions identified by the education data center and have been identified by the legislative committees in (c) of this subsection. Within three months of receiving the list, the K-12 data governance group shall develop and transmit to the education data center a feasibility analysis of obtaining or improving the data, including the steps required, estimated time frame, and the financial and other resources that would be required. Based on the analysis, the education data center shall submit, if necessary, a recommendation to the legislature regarding any statutory changes or resources that would be needed to collect or improve the data;

(e) Monitor and evaluate the education data collection systems of the organizations and agencies represented in the education data center ensuring that data systems are flexible, able to adapt to evolving needs for information, and to the extent feasible and necessary, include data that are needed to conduct the analyses and provide answers to the research and policy questions identified in (a) of this subsection;

(f)) The office of financial management shall:

(1) Track enrollment and outcomes through the public centralized higher education enrollment system;

((g)) (2) Assist other state educational agencies' collaborative efforts to develop a long-range enrollment plan for higher education including estimates to meet demographic and workforce needs;

((h)) Provide research that focuses on student transitions within and among the early learning, K-12, and higher education sectors in the P-20 system; and

(i) Make recommendations to the legislature as necessary to help ensure the goals and objectives of this section and RCW 28A.655.210 and 28A.300.507 are met.

(3) The department of early learning, superintendent of public instruction, professional educator standards board, state board of education, state board for community and technical colleges, workforce training and education coordinating board, higher education coordinating board, public four-year institutions of higher education, and employment security department shall work with the education data center to develop data-sharing and research agreements, consistent with applicable security and confidentiality requirements, to facilitate the work of the center. Private, nonprofit institutions of higher education that provide programs of education beyond the high school level leading at least to the baccalaureate degree and are accredited by the Northwest association of schools and colleges or their peer accreditation bodies may also develop data-sharing and research agreements with the education data center, consistent with applicable security and confidentiality requirements. The education data center shall make data from collaborative analyses available to the education agencies and institutions that contribute data to the education data center to the extent allowed by federal and state security and confidentiality requirements applicable to the data of each contributing agency or institution))

(3) Develop data-sharing and research agreements with the legislative evaluation and accountability program and public institutions of higher education, consistent with applicable security and confidentiality requirements, to facilitate the work of the education research and data center under section 902 of this act; and

(4) Cooperate with the education research and data center to compile and analyze education data.

**NEW SECTION. Sec. 902.** A new section is added to chapter 44.48 RCW to read as follows:

(1) An education research and data center is established under the legislative evaluation and accountability program committee. The purpose of the center is to:

(a) Serve as a data warehouse for education data across the P-20 education system, which includes the department of early learning, the office of the superintendent of public instruction, the professional educator standards board, the state board of education,

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

the state board for community and technical colleges, the workforce training and education coordinating board, the office of financial management, the higher education coordinating board, public and private nonprofit four-year institutions of higher education, and the employment security department;

(b) Coordinate with other state education agencies to compile and analyze education data, including data on student demographics that is disaggregated by distinct ethnic categories within racial subgroups, and conduct collaborative analyses of early learning, K-12, and higher education programs and education issues across the P-20 system;

(c) Disseminate education data and information, consistent with applicable security and confidentiality requirements, to the education agencies and institutions that contribute data to the center and to school districts, policy makers, educators, researchers, and the public; and

(d) Develop and maintain a searchable web site with education data and information, including downloadable files and customizable reports.

(2) The education research and data center shall be considered an authorized representative of the state educational agencies in this section under applicable federal and state statutes for purposes of accessing and compiling student record data for research purposes.

(3) The education research and data center shall:

(a) In consultation with the agencies and organizations participating in the center, identify the critical research and policy questions that are intended to be addressed by the center, the data needed to address the questions, key clients for the data and their needs, and the role these clients can play in addressing the questions;

(b) Collaborate with the office of financial management and the education and fiscal committees of the legislature in identifying the data to be compiled and analyzed;

(c) Annually provide to the K-12 data governance group under RCW 28A.300.507 a list of data elements and data quality improvements that are necessary to answer critical research and policy questions. Within three months of receiving the list, the K-12 data governance group shall develop and transmit to the center a feasibility analysis of obtaining or improving the data, including the steps required, estimated time frame, and the financial and other resources that would be required. Based on the analysis, the education research and data center shall submit, if necessary, a recommendation to the legislature regarding any statutory changes or resources that would be needed to collect or improve the data;

(d) Monitor and evaluate the education data collection systems of the state educational agencies to ensure that data systems are flexible and able to adapt to evolving needs for information, and to the extent feasible and necessary, include data needed to conduct the analyses and provide answers to the research and policy questions identified in (a) of this subsection;

(e) Facilitate use of the data to support academic research and studies by the state educational agencies, independent academic researchers, legislative research agencies, and others; and

(f) Make recommendations to the legislature as necessary so that the goals and objectives of this section and RCW 28A.655.210 and 28A.300.507 are met.

(4) The department of early learning, office of the superintendent of public instruction, professional educator standards board, state board of education, state board for community and technical colleges, workforce training and education coordinating board, higher education coordinating board, office of financial management, public four-year institutions of higher education, and employment security department shall work with the education research and data center to develop data-sharing and research agreements, consistent with applicable security and confidentiality requirements, to facilitate the work of the center. Private, nonprofit

institutions of higher education that provide programs of education beyond the high school level leading at least to the baccalaureate degree and are accredited by the Northwest association of schools and colleges or their peer accreditation bodies may also develop data-sharing and research agreements with the education research and data center, consistent with applicable security and confidentiality requirements.

(5) The education research and data center and the superintendent of public instruction shall take all actions necessary to secure federal funds to implement this section, RCW 28A.655.210, and 28A.300.507.

**Sec. 903.** RCW 44.48.090 and 2001 c 259 s 14 are each amended to read as follows:

The committee shall have the following powers:

(1) To have timely access, upon written request of the administrator, to all machine readable, printed, and other data of state agencies relative to expenditures, budgets, and related fiscal matters;

(2) To suggest changes relative to state accounting and reporting systems to the office of financial management or its successor and to require timely written responses to such suggestions; ~~(and)~~

(3) Subject to RCW 44.04.260, to enter into contracts; and when entering into any contract for computer access, make necessary provisions relative to the scheduling of computer time and usage in recognition of the unique requirements and priorities of the legislative process; and

(4) To manage and oversee the education research and data center as provided in section 902 of this act.

**NEW SECTION. Sec. 904.** (1) The education data center in the office of financial management is abolished.

(2)(a) All reports, documents, surveys, books, records, files, papers, databases, or other written or electronic material in the possession of the education data center shall be delivered to the custody of the legislative evaluation and accountability program committee for purposes of the education research and data center established under section 902 of this act. Written or electronic materials and data sets pertaining solely to the public centralized higher education enrollment system shall be retained by the office of financial management, but written or electronic materials and data sets that are the result of the work of the education data center to link data in the public centralized higher education enrollment system to other educational databases shall be delivered to the legislative evaluation and accountability program committee. All funds, credits, or other monetary assets held by the education data center shall be assigned to the legislative evaluation and accountability program committee.

(b) Any appropriations made to the office of financial management for purposes of the education data center shall, on the effective date of this section, be transferred and credited to the legislative evaluation and accountability program committee.

(c) If any questions arise as to the transfer of any funds, books, documents, records, papers, files, databases, or other written or electronic material previously used or held in the exercise of the powers and performance of the education data center, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(d) The elimination of the education data center shall not affect the validity of any act performed before the effective date of this section.

(e) 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 property records in accordance with the certification.

(3) All data-sharing and research agreements developed between the state educational agencies under section 902 of this act and the education data center before the effective date of this section shall be transferred to the education research and data center under the legislative evaluation and accountability program committee and shall be continued and acted upon by the education research and data center as the successor agency and authorized representative of the state educational agencies. All existing contracts and obligations shall remain in full force and shall be performed by the education research and data center.

(4) The education research and data center under the legislative evaluation and accountability program committee shall assume the role of program director for purposes of the federal evergreen state P-20 longitudinal education data system grant.

**Sec. 905.** RCW 28A.300.500 and 2007 c 401 s 2 are each amended to read as follows:

(1) The office of the superintendent of public instruction is authorized to establish a longitudinal student data system for and on behalf of school districts in the state. The primary purpose of the data system is to better aid research into programs and interventions that are most effective in improving student performance, better understand the state's public educator workforce, and provide information on areas within the educational system that need improvement.

(2) The confidentiality of personally identifiable student data shall be safeguarded consistent with the requirements of the federal family educational rights privacy act and applicable state laws. Consistent with the provisions of these federal and state laws, data may be disclosed for educational purposes and studies, including but not limited to:

(a) Educational studies authorized or mandated by the state legislature;

(b) Studies initiated by other state educational authorities and authorized by the office of the superintendent of public instruction, including analysis conducted by the education research and data center established under ~~((RCW 43.41.400))~~ section 902 of this act; and

(c) Studies initiated by other public or private agencies and organizations and authorized by the office of the superintendent of public instruction.

(3) Any agency or organization that is authorized by the office of the superintendent of public instruction to access student-level data shall adhere to all federal and state laws protecting student data and safeguarding the confidentiality and privacy of student records.

(4) Nothing in this section precludes the office of the superintendent of public instruction from collecting and distributing aggregate data about students or student-level data without personally identifiable information.

**Sec. 906.** RCW 28A.300.507 and 2009 c 548 s 203 are each amended to read as follows:

(1) A K-12 data governance group shall be established within the office of the superintendent of public instruction to assist in the design and implementation of a K-12 education data improvement system for financial, student, and educator data. It is the intent that the data system reporting specifically serve requirements for teachers, parents, superintendents, school boards, the office of the superintendent of public instruction, the legislature, and the public.

(2) The K-12 data governance group shall include representatives of the education research and data center, the office of the superintendent of public instruction, ~~((the legislative evaluation and accountability program committee,))~~ the professional educator standards board, the state board of education, and school district staff, including information technology staff.

Additional entities with expertise in education data may be included in the K-12 data governance group.

(3) The K-12 data governance group shall:

(a) Identify the critical research and policy questions that need to be addressed by the K-12 education data improvement system;

(b) Identify reports and other information that should be made available on the internet in addition to the reports identified in subsection (5) of this section;

(c) Create a comprehensive needs requirement document detailing the specific information and technical capacity needed by school districts and the state to meet the legislature's expectations for a comprehensive K-12 education data improvement system as described under RCW 28A.655.210;

(d) Conduct a gap analysis of current and planned information compared to the needs requirement document, including an analysis of the strengths and limitations of an education data system and programs currently used by school districts and the state, and specifically the gap analysis must look at the extent to which the existing data can be transformed into canonical form and where existing software can be used to meet the needs requirement document;

(e) Focus on financial and cost data necessary to support the new K-12 financial models and funding formulas, including any necessary changes to school district budgeting and accounting, and on assuring the capacity to link data across financial, student, and educator systems; and

(f) Define the operating rules and governance structure for K-12 data collections, ensuring that data systems are flexible and able to adapt to evolving needs for information, within an objective and orderly data governance process for determining when changes are needed and how to implement them. Strong consideration must be made to the current practice and cost of migration to new requirements. The operating rules should delineate the coordination, delegation, and escalation authority for data collection issues, business rules, and performance goals for each K-12 data collection system, including:

(i) Defining and maintaining standards for privacy and confidentiality;

(ii) Setting data collection priorities;

(iii) Defining and updating a standard data dictionary;

(iv) Ensuring data compliance with the data dictionary;

(v) Ensuring data accuracy; and

(vi) Establishing minimum standards for school, student, financial, and teacher data systems. Data elements may be specified "to the extent feasible" or "to the extent available" to collect more and better data sets from districts with more flexible software. Nothing in ~~((RCW 43.41.400))~~ section 902 of this act, this section, or RCW 28A.655.210 should be construed to require that a data dictionary or reporting should be hobbled to the lowest common set. The work of the K-12 data governance group must specify which data are desirable. Districts that can meet these requirements shall report the desirable data. Funding from the legislature must establish which subset data are absolutely required.

(4)(a) The K-12 data governance group shall provide updates on its work as requested by the education research and data center ~~((and the legislative evaluation and accountability program committee))~~.

(b) The work of the K-12 data governance group shall be periodically reviewed and monitored by the ~~((educational))~~ education research and data center ~~((and the legislative evaluation and accountability program committee))~~.

(5) To the extent data is available, the office of the superintendent of public instruction shall make the following minimum reports available on the internet. The reports must either be run on demand against current data, or, if a static report, must have been run against the most recent data:



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(a) The percentage of data compliance and data accuracy by school district;

(b) The magnitude of spending per student, by student estimated by the following algorithm and reported as the detailed summation of the following components:

(i) An approximate, prorated fraction of each teacher or human resource element that directly serves the student. Each human resource element must be listed or accessible through online tunneling in the report;

(ii) An approximate, prorated fraction of classroom or building costs used by the student;

(iii) An approximate, prorated fraction of transportation costs used by the student; and

(iv) An approximate, prorated fraction of all other resources within the district. District-wide components should be disaggregated to the extent that it is sensible and economical;

(c) The cost of K-12 basic education, per student, by student, by school district, estimated by the algorithm in (b) of this subsection, and reported in the same manner as required in (b) of this subsection;

(d) The cost of K-12 special education services per student, by student receiving those services, by school district, estimated by the algorithm in (b) of this subsection, and reported in the same manner as required in (b) of this subsection;

(e) Improvement on the statewide assessments computed as both a percentage change and absolute change on a scale score metric by district, by school, and by teacher that can also be filtered by a student's length of full-time enrollment within the school district;

(f) Number of K-12 students per classroom teacher on a per teacher basis;

(g) Number of K-12 classroom teachers per student on a per student basis;

(h) Percentage of a classroom teacher per student on a per student basis; and

(i) The cost of K-12 education per student by school district sorted by federal, state, and local dollars.

(6) The superintendent of public instruction shall submit a preliminary report to the legislature by November 15, 2009, including the analyses by the K-12 data governance group under subsection (3) of this section and preliminary options for addressing identified gaps. A final report, including a proposed phase-in plan and preliminary cost estimates for implementation of a comprehensive data improvement system for financial, student, and educator data shall be submitted to the legislature by September 1, 2010.

(7) All reports and data referenced in this section (~~and RCW 43.41.400~~), section 902 of this act, and RCW 28A.655.210 shall be made available in a manner consistent with the technical requirements of the (~~legislative evaluation and accountability program committee and the~~) education research and data center so that selected data can be provided to the legislature, governor, school districts, and the public.

(8) Reports shall contain data to the extent it is available. All reports must include documentation of which data are not available or are estimated. Reports must not be suppressed because of poor data accuracy or completeness. Reports may be accompanied with documentation to inform the reader of why some data are missing or inaccurate or estimated.

**Sec. 907.** RCW 28A.655.210 and 2009 c 548 s 202 are each amended to read as follows:

(1) It is the legislature's intent to establish a comprehensive K-12 education data improvement system for financial, student, and educator data. The objective of the system is to monitor student progress, have information on the quality of the educator workforce,

monitor and analyze the costs of programs, provide for financial integrity and accountability, and have the capability to link across these various data components by student, by class, by teacher, by school, by district, and statewide. Education data systems must be flexible and able to adapt to evolving needs for information, but there must be an objective and orderly data governance process for determining when changes are needed and how to implement them. It is the further intent of the legislature to provide independent review and evaluation of a comprehensive K-12 education data improvement system by assigning the review and monitoring responsibilities to the education research and data center (~~and the legislative evaluation and accountability program committee~~).

(2) It is the intent that the data system specifically service reporting requirements for teachers, parents, superintendents, school boards, the legislature, the office of the superintendent of public instruction, and the public.

(3) It is the legislature's intent that the K-12 education data improvement system used by school districts and the state include but not be limited to the following information and functionality:

(a) Comprehensive educator information, including grade level and courses taught, building or location, program, job assignment, years of experience, the institution of higher education from which the educator obtained his or her degree, compensation, class size, mobility of class population, socioeconomic data of class, number of languages and which languages are spoken by students, general resources available for curriculum and other classroom needs, and number and type of instructional support staff in the building;

(b) The capacity to link educator assignment information with educator certification information such as certification number, type of certification, route to certification, certification program, and certification assessment or evaluation scores;

(c) Common coding of secondary courses and major areas of study at the elementary level or standard coding of course content;

(d) Robust student information, including but not limited to student characteristics, course and program enrollment, performance on statewide and district summative and formative assessments to the extent district assessments are used, and performance on college readiness tests;

(e) A subset of student information elements to serve as a dropout early warning system;

(f) The capacity to link educator information with student information;

(g) A common, standardized structure for reporting the costs of programs at the school and district level with a focus on the cost of services delivered to students;

(h) Separate accounting of state, federal, and local revenues and costs;

(i) Information linking state funding formulas to school district budgeting and accounting, including procedures:

(i) To support the accuracy and auditing of financial data; and

(ii) Using the prototypical school model for school district financial accounting reporting;

(j) The capacity to link program cost information with student performance information to gauge the cost-effectiveness of programs;

(k) Information that is centrally accessible and updated regularly; and

(l) An anonymous, nonidentifiable replicated copy of data that is updated at least quarterly, and made available to the public by the state.

(4) It is the legislature's goal that all school districts have the capability to collect state-identified common data and export it in a standard format to support a statewide K-12 education data improvement system under this section.

(5) It is the legislature's intent that the K-12 education data improvement system be developed to provide the capability to make reports as required under RCW 28A.300.507 available.

(6) It is the legislature's intent that school districts collect and report new data elements to satisfy the requirements of (~~RCW 43.41.400~~) section 902 of this act, this section, and RCW 28A.300.507, only to the extent funds are available for this purpose.

**Sec. 908.** RCW 28A.657.110 and 2010 c 235 s 111 are each amended to read as follows:

(1) The state board of education shall continue to refine the development of an accountability framework that creates a unified system of support for challenged schools, that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions.

(2) The state board of education shall develop an accountability index to identify schools and districts for recognition, for continuous improvement, and for additional state support. The index shall be based on criteria that are fair, consistent, and transparent. Performance shall be measured using multiple outcomes and indicators including, but not limited to, graduation rates and results from statewide assessments. The index shall be developed in such a way as to be easily understood by both employees within the schools and districts, as well as parents and community members. It is the legislature's intent that the index provide feedback to schools and districts to self-assess their progress, and enable the identification of schools with exemplary student performance and those that need assistance to overcome challenges in order to achieve exemplary student performance.

(3) The state board of education, in cooperation with the office of the superintendent of public instruction, shall annually recognize schools for exemplary performance as measured on the state board of education accountability index. The state board of education shall have ongoing collaboration with the achievement gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps.

(4) In coordination with the superintendent of public instruction, the state board of education shall seek approval from the United States department of education for use of the accountability index and the state system of support, assistance, and intervention, to replace the federal accountability system under P.L. 107-110, the no child left behind act of 2001.

(5) The state board of education shall work with the education research and data center (~~(established within the office of financial management)~~) and the technical working group established in (~~section 112, chapter 548, Laws of 2009~~) RCW 28A.290.020 to determine the feasibility of using the prototypical funding allocation model as not only a tool for allocating resources to schools and districts but also as a tool for schools and districts to report to the state legislature and the state board of education on how the state resources received are being used.

**NEW SECTION. Sec. 909.** RCW 43.41.405 (K-12 data--Securing federal funds) and 2009 c 548 s 204 are each repealed.

## PART X ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

**NEW SECTION. Sec. 1001.** A new section is added to chapter 41.80 RCW to read as follows:

(1) By January 1, 2012, the public employment relations commission may review the appropriateness of the collective bargaining units transferred under sections 1002, 1003, 1004, 1008, and 1009 of this act. The employer or the exclusive bargaining

representative may petition the public employment relations commission to review the bargaining units in accordance with this section.

(2) If the commission determines that an existing collective bargaining unit is appropriate pursuant to RCW 41.80.070, the exclusive bargaining representative certified to represent the bargaining unit prior to January 1, 2012, shall continue as the exclusive bargaining representative without the necessity of an election.

(3) If the commission determines that existing collective bargaining units are not appropriate, the commission may modify the units and order an election pursuant to RCW 41.80.080. Certified bargaining representatives will not be required to demonstrate a showing of interest to be included on the ballot.

(4) The commission may require an election pursuant to RCW 41.80.080 if similarly situated employees are represented by more than one employee organization. Certified bargaining representatives will not be required to demonstrate a showing of interest to be included on the ballot.

**NEW SECTION. Sec. 1002.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The department of general administration is hereby abolished and its powers, duties, and functions are transferred to the department of enterprise services. All references to the director or department of general administration in the Revised Code of Washington shall be construed to mean the director or the department of enterprise services.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of general administration shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of general administration shall be made available to the department of enterprise services. All funds, credits, or other assets held by the department of general administration shall be assigned to the department of enterprise services.

(b) Any appropriations made to the department of general administration shall, on the effective date of this section, be transferred and credited to the department of enterprise services.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of general administration shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(4) The transfer of the powers, duties, functions, and personnel of the department of general administration shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of general administration engaged in performing the powers, functions, and duties transferred to the department of enterprise services, are transferred to the department of enterprise services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the

THIRTIETH DAY, MAY 25, 2011

department of enterprise services 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 law.

(7) Unless or until modified by the public employment relations commission pursuant to section 1001 of this act:

(a) The bargaining units of employees at the department of general administration existing on the effective date of this section shall be considered appropriate units at the department of enterprise services and will be so certified by the public employment relations commission.

(b) The exclusive bargaining representatives recognized as representing the bargaining units of employees at the department of general administration existing on the effective date of this section shall continue as the exclusive bargaining representatives of the transferred bargaining units without the necessity of an election.

**NEW SECTION. Sec. 1003.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The public printer is hereby abolished and its powers, duties, and functions, to the extent provided in this act, are transferred to the department of enterprise services. All references to the public printer in the Revised Code of Washington shall be construed to mean the director or the department of enterprise services.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the public printer shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the public printer shall be made available to the department of enterprise services. All funds, credits, or other assets held by the public printer shall be assigned to the department of enterprise services.

(b) Any appropriations made to the public printer shall, on the effective date of this section, be transferred and credited to the department of enterprise services.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the public printer shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(4) The transfer of the powers, duties, functions, and personnel of the public printer shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the public printer engaged in performing the powers, functions, and duties transferred to the department of enterprise services are transferred to the department of enterprise services.

(a) The commercial agreement between the graphic communications conference of the international brotherhood of teamsters, local 767M and the department of printing-bindery that became effective July 1, 2007, shall remain in effect during its duration. Upon expiration, the parties may extend the terms of the agreement; however, the agreement may not be extended beyond

2011 1ST SPECIAL SESSION

September 30, 2011. Beginning October 1, 2011, chapter 41.80 RCW shall apply to the department of enterprise services with respect to employees in positions formerly covered under the expired commercial agreement.

(b) The commercial agreement between the graphic communications conference of the international brotherhood of teamsters, local 767M and the department of printing-litho that became effective July 1, 2007, shall remain in effect during its duration. Upon expiration, the parties may extend the terms of the agreement; however, the agreement may not be extended beyond September 30, 2011. Beginning October 1, 2011, chapter 41.80 RCW shall apply to the department of enterprise services with respect to the employees in positions formerly covered under the expired commercial agreement.

(c) The typographical contract between the communications workers of America, the newspaper guild, local 37082, and the department of printing-typographical that became effective July 1, 2007, shall remain in effect during its duration. Upon expiration, the parties may extend the terms of the agreement; however, the agreement may not be extended beyond September 30, 2011. Beginning October 1, 2011, chapter 41.80 RCW shall apply to the department of enterprise services with respect to the employees in positions formerly covered under the expired typographical contract.

(d) All other employees of the public printer not covered by the contracts and agreements specified in (a) through (c) of this subsection shall be exempt from chapter 41.06 RCW until October 1, 2011, at which time these employees shall be subject to chapter 41.06 RCW, unless otherwise deemed exempt in accordance with that chapter.

(7) Unless or until modified by the public employment relations commission pursuant to section 1001 of this act:

(a) The bargaining units of printing craft employees existing on the effective date of this section shall be considered an appropriate unit at the department of enterprise services and will be so certified by the public employment relations commission; and

(b) The exclusive bargaining representatives recognized as representing the bargaining units of printing craft employees existing on the effective date of this section shall continue as the exclusive bargaining representatives of the transferred bargaining units without the necessity of an election.

**NEW SECTION. Sec. 1004.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The powers, duties, and functions of the department of information services as set forth in sections 601, 602, and 614 of this act are hereby transferred to the department of enterprise services.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of information services pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of information services in carrying out the powers, duties, and functions transferred shall be made available to the department of enterprise services. All funds, credits, or other assets held by the department of information services in connection with the powers, duties, and functions transferred shall be assigned to the department of enterprise services.

(b) Any appropriations made to the department of information 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 enterprise services.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the

performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of information services pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(4) The transfer of the powers, duties, functions, and personnel of the department of information services shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of information services engaged in performing the powers, functions, and duties transferred to the department of enterprise services, are transferred to the department of enterprise services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of enterprise services 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 law.

(7) Unless or until modified by the public employment relations commission pursuant to section 1001 of this act:

(a) The portions of the bargaining units of employees at the department of information services existing on the effective date of this section shall be considered appropriate units at the department of enterprise services and will be so certified by the public employment relations commission.

(b) The exclusive bargaining representatives recognized as representing the portions of the bargaining units of employees at the department of information services existing on the effective date of this section shall continue as the exclusive bargaining representative of the transferred bargaining units without the necessity of an election.

**NEW SECTION. Sec. 1005.** A new section is added to chapter 43.19 RCW to read as follows:

(1) Those powers, duties, and functions of the department of personnel being transferred to the department of enterprise services as set forth in Part IV of this act are hereby transferred to the department of enterprise services.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of personnel pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of personnel in carrying out the powers, duties, and functions transferred shall be made available to the department of enterprise services. All funds, credits, or other assets held by the department of personnel in connection with the powers, duties, and functions transferred shall be assigned to the department of enterprise services.

(b) Any appropriations made to the department of personnel 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 enterprise services.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the

performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of personnel pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(4) The transfer of the powers, duties, functions, and personnel of the department of personnel shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of personnel engaged in performing the powers, functions, and duties transferred to the department of enterprise services, are transferred to the department of enterprise services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of enterprise services 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 law.

**NEW SECTION. Sec. 1006.** A new section is added to chapter 43.41 RCW to read as follows:

(1) Those powers, duties, and functions of the department of personnel being transferred to the office of financial management as set forth in Part IV of this act are hereby transferred to the office of financial management.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of personnel pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the office of financial management. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of personnel in carrying out the powers, duties, and functions transferred shall be made available to the office of financial management. All funds, credits, or other assets held by the department of personnel in connection with the powers, duties, and functions transferred shall be assigned to the office of financial management.

(b) Any appropriations made to the department of personnel for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the office of financial management.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of personnel pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the office of financial management. All existing contracts and obligations shall remain in full force and shall be performed by the office of financial management.

(4) The transfer of the powers, duties, functions, and personnel of the department of personnel shall not affect the validity of any act performed before the effective date of this section.

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of personnel engaged in performing the powers, functions, and duties transferred to the office of financial management, are transferred to the office of financial management. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the office of financial management 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 law.

**NEW SECTION. Sec. 1007.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The powers, duties, and functions of the office of financial management as set forth in Part V of this act are hereby transferred to the department of enterprise services.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the office of financial management pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the office of financial management in carrying out the powers, duties, and functions transferred shall be made available to the department of enterprise services. All funds, credits, or other assets held by the office of financial management in connection with the powers, duties, and functions transferred shall be assigned to the department of enterprise services.

(b) Any appropriations made to the office of financial management 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 enterprise services.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the office of financial management pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(4) The transfer of the powers, duties, functions, and personnel of the office of financial management shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the office of financial management engaged in performing the powers, functions, and duties transferred to the department of enterprise services, are transferred to the department of enterprise services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to department of enterprise services 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 law.

**NEW SECTION. Sec. 1008.** A new section is added to chapter 43.330 RCW to read as follows:

(1) All powers, duties, and functions of the department of information services pertaining to high-speed internet activities are transferred to the department of commerce. All references to the director or the department of information services in the Revised Code of Washington shall be construed to mean the director or the department of commerce when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of information services pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of commerce. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of information services in carrying out the powers, functions, and duties transferred shall be made available to the department of commerce. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of commerce.

(b) Any appropriations made to the department of information 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 commerce.

(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 information services engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of commerce. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of commerce 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 information services pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of commerce. All existing contracts and obligations shall remain in full force and shall be performed by the department of commerce.

(5) The transfer of the powers, duties, functions, and personnel of the department of information 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 information services assigned to the department of commerce under this section whose positions are within an existing bargaining unit description at the department of commerce shall become a part of the existing bargaining unit at the department of commerce 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. 1009.** A new section is added to chapter 43.330 RCW to read as follows:

(1) Those powers, duties, and functions of the department of information services being transferred to the consolidated technology services agency as set forth in sections 801 through 816 of this act are hereby transferred to the consolidated technology services agency.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of information services shall be delivered to the custody of the consolidated technology services agency. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of information services shall be made available to the consolidated technology services agency. All funds, credits, or other assets held by the department of information services shall be assigned to the consolidated technology services agency.

(b) Any appropriations made to the department of information services shall, on the effective date of this section, be transferred and credited to the consolidated technology services agency.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of information services pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the consolidated technology services agency. All existing contracts and obligations shall remain in full force and shall be performed by the consolidated technology services agency.

(4) The transfer of the powers, duties, functions, and personnel of the department of information services shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of information services engaged in performing the powers, functions, and duties transferred to the consolidated technology services agency are transferred to the consolidated technology services agency. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the consolidated technology services agency 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 law.

(7) Unless or until modified by the public employment relations commission pursuant to section 1001 of this act:

(a) The portions of the bargaining units of employees at the department of information services existing on the effective date of this section shall be considered appropriate units at the consolidated technology services agency and will be so certified by the public employment relations commission.

(b) The exclusive bargaining representatives recognized as representing the portions of the bargaining units of employees at the department of information services existing on the effective date of this section shall continue as the exclusive bargaining representatives of the transferred bargaining units without the necessity of an election.

**Sec. 1010.** RCW 41.06.070 and 2010 c 271 s 801, 2010 c 2 s 2, and 2010 c 1 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) (The public printer or to any employees of or positions in the state printing plant;

(n)) Officers and employees of the Washington state fruit commission;

((~~Ⓢ~~)) (n) Officers and employees of the Washington apple commission;

((~~Ⓢ~~)) (o) Officers and employees of the Washington state dairy products commission;

((~~Ⓢ~~)) (p) Officers and employees of the Washington tree fruit research commission;

((~~Ⓢ~~)) (q) Officers and employees of the Washington state beef commission;

((~~Ⓢ~~)) (r) Officers and employees of the Washington grain commission;

((~~Ⓢ~~)) (s) Officers and employees of any commission formed under chapter 15.66 RCW;

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

~~((t))~~ (t) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

~~((u))~~ (u) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

~~((v))~~ (v) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

~~((w))~~ (w) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

~~((x))~~ (x) All employees of the marine employees' commission;

~~((y))~~ (y) Staff employed by the department of commerce to administer energy policy functions;

~~((z))~~ (z) The manager of the energy facility site evaluation council;

~~((aa))~~ (aa) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (x) of this subsection;

~~((ab))~~ (ab) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5);

(cc) Officers and employees of the consolidated technology services agency created in section 801 of this act that perform the following functions or duties: Systems integration; data center engineering and management; network systems engineering and management; information technology contracting; information technology customer relations management; and network and systems security.

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director ~~((of personnel))~~ may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the ~~((director of personnel))~~ office of financial management stating the reasons for requesting such exemptions. The director ~~((of personnel))~~ shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, or is a senior expert in enterprise information technology infrastructure, engineering, or systems, the director ~~((of personnel))~~ shall grant the request ~~((and such determination shall be final as to any decision made before July 1, 1993))~~. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through ~~((u))~~ (u) and ~~((x))~~ (x) and (2) of this section, shall be determined by the director ~~((of personnel))~~. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position exempt from classification under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation formed under chapter 67.40 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt from classification under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

From February 15, 2010, until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**NEW SECTION. Sec. 1011.** Sections 701 through 721 of this act constitute a new chapter in Title 43 RCW to be codified as chapter 43.41A RCW.

**NEW SECTION. Sec. 1012.** RCW 43.105.052, 43.105.172, 43.105.250, 43.105.260, 43.105.270, 43.105.280, 43.105.290, 43.105.310, and 43.105.835 are each recodified as sections in chapter 43.-- RCW (the new chapter created in section 1011 of this act).

**NEW SECTION. Sec. 1013.** The following acts or parts of acts are each repealed:

(1) RCW 43.105.005 (Purpose) and 1990 c 208 s 1 & 1987 c 504 s 1;

(2) RCW 43.105.013 (Finding--Intent) and 2010 c 282 s 1;

(3) RCW 43.105.019 (Enterprise-based strategy--Coordination with legislative and judicial branches) and 2010 c 282 s 10;

(4) RCW 43.105.032 (Information services board--Members--Chairperson--Vacancies--Quorum--Compensation and travel expenses) and 2007 c 158 s 1, 1999 c 241 s 2, 1996 c 137 s 10, 1992 c 20 s 8, 1987 c 504 s 4, 1984 c 287 s 86, 1975-'76 2nd ex.s. c 34 s 128, & 1973 1st ex.s. c 219 s 5;

(5) RCW 43.105.041 (Powers and duties of board) and 2010 1st sp.s. c 7 s 65, 2009 c 486 s 13, 2003 c 18 s 3, & 1999 c 285 s 5;

(6) RCW 43.105.095 (Management and oversight structure) and 1999 c 80 s 3;

(7) RCW 43.105.105 (Information technology decisions and plans) and 1999 c 80 s 4;

(8) RCW 43.105.160 (Strategic information technology plan--Biennial state performance report on information technology) and 2010 c 282 s 9, 2005 c 319 s 110, 1999 c 80 s 9, 1998 c 177 s 3, 1996 c 171 s 9, & 1992 c 20 s 1;

(9) RCW 43.105.170 (Information technology portfolios--Contents--Performance reports) and 1999 c 80 s 10;

(10) RCW 43.105.180 (Evaluation of budget requests for information technology projects) and 2010 c 282 s 6 & 1999 c 80 s 11;

(11) RCW 43.105.190 (Major information technology projects standards and policies--Project evaluation and reporting) and 2005 c 319 s 111, 1999 c 80 s 12, 1998 c 177 s 4, 1996 c 137 s 15, & 1992 c 20 s 4;

(12) RCW 43.105.200 (Application to institutions of higher education) and 1992 c 20 s 5;

(13) RCW 43.105.210 (Data processing expenditures--Authorization--Penalties) and 1993 sp.s. c 1 s 903;

(14) RCW 43.105.330 (State interoperability executive committee) and 2006 c 76 s 2 & 2003 c 18 s 4;

(15) RCW 43.105.805 (Information services board--Powers and duties) and 2010 1st sp.s. c 9 s 1, 2010 1st sp.s. c 7 s 66, & 1999 c 285 s 3;

(16) RCW 43.105.815 (K-20 operations cooperative--Ongoing management) and 1999 c 285 s 8; and

(17) RCW 43.105.820 (K-20 telecommunication system--Technical plan) and 2010 1st sp.s. c 7 s 67, 1999 c 285 s 11, & 1996 c 137 s 8.

**NEW SECTION. Sec. 1014.** Sections 728 through 731 of this act expire January 1, 2012.

**NEW SECTION. Sec. 1015.** Section 732 of this act takes effect January 1, 2012.

**NEW SECTION. Sec. 1016.** The code reviser shall note wherever the director or department of any agency or agency's duties transferred or consolidated under this act is used or referred to in statute that the name of the director or department has changed. The code reviser shall prepare legislation for the 2012 regular session that (1) changes all statutory references to the director or department of any agency transferred or consolidated under this act, and (2) changes statutory references to sections recodified by this act but not amended in this act.

**NEW SECTION. Sec. 1017.** Except for sections 109, 448, 462, and 732 of this act, this act takes effect October 1, 2011."

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 Engrossed Substitute Senate Bill No. 5931.

Senators Pridemore and Baumgartner 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 Engrossed Substitute Senate Bill No. 5931.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5931 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5931, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5931, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 31; Nays, 15; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Delvin, Eide, Ericksen, Fain, Hargrove, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, King, Litzow, Parlette, Pflug, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Chase, Conway, Fraser, Harper, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Nelson, Ranker, Roach and White

Excused: Senators Benton, Hobbs and Shin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5931, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

#### SECOND READING



THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

ENGROSSED HOUSE BILL NO. 2069, by Representative Cody

Concerning hospital payments.

The measure was read the second time.

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed House Bill No. 2069 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2069.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2069 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 20; Absent, 0; Excused, 3.

Voting yea: Senators Brown, Conway, Eide, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Keiser, Kilmer, King, Kline, Kohl-Welles, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Becker, Carrell, Chase, Delvin, Ericksen, Fain, Harper, Hill, Holmquist Newbry, Honeyford, Kastama, Litzow, McAuliffe, Morton, Parlette, Roach, Sheldon and Stevens

Excused: Senators Benton, Hobbs and Shin

ENGROSSED HOUSE BILL NO. 2069, 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:

HOUSE BILL NO. 1131,  
SECOND SUBSTITUTE HOUSE BILL NO. 1132,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1548,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1981,  
ENGROSSED HOUSE BILL NO. 2003,  
SUBSTITUTE HOUSE BILL NO. 2119.

#### REMARKS BY THE PRESIDENT

President Owen: "Ladies and gentleman of the Senate, each year except for last year the President has had the opportunity to share with you some of his observations and perceptions. This year I've added one other category called, 'Things overheard' which I have no control over they're just things I heard and so with your patience, if you're thin skinned you might leave the floor at this time. Bunch of babies.

So, the Senator who believes Elvis is still alive and lives within his body, Senator Hatfield.

The worst whine of the session is ironically from the only person in this room, maybe even this building that can bench press three-hundred fifty pounds that is Senator Hargrove's whine over a paper cut.

The Senator who most resembles a fog horn when voting, Senator Litzow.

The revered title of Senator 'No.' It is always a horse race, no reference to the Senators intended. This year it has been quite confusing for the President as the two major contenders have been both, unexplainably, voted yes and at different times. However, the President believes that something has caused the strange change in Senator Holmquist Newbry. It could be she has been softened through marriage, it could be outside influence from her very distinguished and accomplished grandfather-in-law, former Senator Newbry but, whatever it is, it has caused her to move a millimeter to the left and give a very rare and unexplainable yes vote, branding the most honorable and distinguished Senator Honeyford this year's title as Senator 'No.'

The President would add a foot note. Senator Baxter could have been considered in the running however the President chose not to include him in that he was not convinced the Senator knew exactly why he voted the way he did particularly since he appears to be getting his direction from Senator Carrell who could be just playing with him. We all know what a kidder Senator Carrell is.

The best line of the session was, 'The House has once again shown that a bill that cannot be improved can still be amended.' Senator Pridemore.

The Senators most likely to be put on detention if this was a middle school, while the President does not feel it appropriate to name them but I will note that they can be found in the back rows of the Senate and, for the most part, to my right over this area right over in here.

The most-worn seat cushion award for strict adherence to the rules by always being in their seats, listening and not talking or carrying on, doing the childish things a few other members do not think the President observes them doing would be Senator Morton, Senator Fraser, Senator Becker, Senator King and Senator Regala.

In a related category, the like-new, rarely-used, seat cushion award would be Senator Hewitt and Senator Brown.

In a related category, the most shocking moment goes to Senator Morton for one time actually not being in his seat during a vote and voted from the side of the chamber.

The Senator who has caused the President great consternation and his ego to be seriously deflated that would be Senator Prentice for disproving the myth the President has attempted to perpetuate for fifteen sessions that his job is difficult and complicated. The President would respectfully request that President Pro Tempore Prentice screw up once in a while.

Unfortunately he is not here but the Senator most likely to hear the words, 'Your point is not well taken,' Senator Benton.

The Senator for this session and only due to the relationship to the previous award receives the most likely to hear these words, 'Your point is well taken,' Senator Brown.

The Senator who claims to have great knowledge of technology but who has yet to be able to locate the off or even the vibrate only button on his cell phone, Senator Benton.

The Senator who generated the most 'Did he really say that' responses during a speech would be Senator Rodney Tom for the use of the word 'erectile dysfunction.'

Two Senators receive the next recognition for inadvertently combining to link subjects previously thought to be unlinkable, those subjects being Viagra, erectile dysfunction, family planning and cigars, Senator Tom and Senator Kline.

Now, a special message to all of you particularly, Senator Tom and Holmquist Newby and Senator Benton, who have provided the President with arguments to assist with his rulings. Underlining and bolding the words, 'It is clearly a tax' or 'It is clearly not a tax' does not make it so nor does it make it influence the President's decision although I do find it very entertaining.

The iron bladder award once again goes to the rostrum staff.

Now, a new category this year, things overheard: I overheard a very reliable source say that one night Senator Kohl-Welles woke up in a cold sweat and thrashing about crying ‘Oh my God.’ Her husband Alex grabbed her and said ‘Senator, what’s wrong?’ She responded that she had a horrible nightmare. She said she dreamt that the Senate had just voted to make the three minute rule permanent. At that point her husband having great concern to the stress that she was feeling responded back, ‘Senator, you try to calm yourself down while I hurry over to the peace and love dispensary in Fremont for some medicine.’”

Many years ago, three little baby brothers were accidentally separated at birth being raised by separate families, all within the state of Washington. Ironically, they were all brought together upon being elected the same year to the State Senate; that would be Senators Fain, Hill and Baumgartner.

In a related matter, due to similarities in hair color, height and general philosophy, authorities have requested a DNA sample to test for parentage from Senator Kastama.

[Picks up telephone] I’m sorry, excuse me, I wouldn’t normally do this but, excuse me just a second. Hi, oh yeah, I loved your last, particularly the fifth track, that was great. Senator who? Just a minute. Senator McAuliffe, could you stand up a minute? Step out here. Yeah? No, she doesn’t have them on. No, I believe that was yesterday. The ones with the flames? I think those were last week, I’m not sure. The pointed ones, Yeah, that was the week before. Oh, yeah, the ones that came up to the knee, knee cap, had a bunch of buttons or something like that? I saw them. Yeah, I saw those too. Oh those other, yeah, they looked like they had a couple dozen runs or something like that. I don’t know which they were, let’s just go with nylons. Ok, ok I will tell her. [Hangs up the telephone] Senator McAuliffe, that was Lady Gaga. She wants her clothes and her shoes back.

Old friend of mine. The ‘Noble’, the Noble Peace Prize goes to Senators Murray, Zarelli, Brown, Hewitt and Governor Gregoire.

And now, on a personal note, for years I have spoken to organizations, individuals and many, many of you about my strong personal beliefs that people are better served when we work as a single entity to solve the critical issues facing our people in our state in a bipartisan way and that all of you should be taken into consideration and all parties involved as much as possible. After thirty-five years in this process, involved in the House and the Senate and the last fifteen years as the Lt. Governor and President of the Senate, it finally happened. You did it on the biggest most critical and most difficult issues facing Washington State. You did it with incredible patience, personal sacrifice and great dignity. So, should I have the power to do so, I would give you an A+ for statesmanship and a great big heart thank you on behalf of the people of the State of Washington and a big hug. Now, on a side note, because I have been waiting for this moment for thirty-five years, I thought to myself. ‘Maybe now’s the time to retire.’ Nah, not yet. Senator Brown, I didn’t expect you to respond to that.”

#### PERSONAL PRIVILEGE

Senator Brown: “Thank you Mr. President. We’re all delighted with your recent awards and announcement. Thank you very much for your incredible patience, and of course, the wisdom of your rulings. I just wanted to say that we discovered something and I knew that there’d been a lot of important people who have served in the legislature in the past and I know that some of our new members think that they are pretty darned special. For example, I know that Senator Litzow is known for his hair and his grooming but I just have to say, you’re no Aaron Reardon. When it comes to good looks many people will

comment on one of our colleagues in Spokane, Senator Baumgartner, but I inquired with a few of the women senators including Senator Prentice, Senator Haugen and others and they said, ‘Senator, your no Jim Jesernig.’ So, Mr. President, I could go on, however, I did discover, you know I am a music fan, we share that, we like the early rock n roll and so forth but Mr. President I didn’t realize that Davey Jones used to serve in the Washington State Senate. [Holds up campaign poster, ca 1976 with photo of the President] What a good looking guy. Thank you Mr. President.”

#### REPLY BY THE PRESIDENT

President Owen: “Thank you. Where did he go? Well, thank you Senator, I think. A rare find.”

#### SECOND READING

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1087, by House Committee on Ways & Means (originally sponsored by Representatives Hunter, Alexander and Darneille)

Making 2011-2013 operating appropriations. Revised for 1st Substitute: Making 2009-2011 and 2011-2013 fiscal biennia operating appropriations.

The measure was read the second time.

#### MOTION

On motion of Senator Murray, the rules were suspended, Second Engrossed Substitute House Bill No. 1087 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray, Zarelli, Schoesler, Hargrove, Kilmer and Keiser spoke in favor of passage of the bill.

#### POINT OF INQUIRY

Senator Keiser: “Would Senator Murray yield to a question? Thank you. Section 206 of this budget bill appropriates funds for the states nursing home reimbursement program and provides a formula for calculating an add on payment to the states facility based payment rate. I noticed that the formula used in this budget bill is different than the formula specified in section 11 of Engrossed Substitute Senate Bill No. 5581 which was enacted earlier this session. The budget bill uses the facility payment rate in effect on June 30, 2010 as the bench mark for calculating the add on payment. While Senate Bill No. 5581 uses June 30, 2011. Which is correct?”

Senator Murray: “Thank you Senator Keiser for the question. Yes, you are correct. The two bills are not consistent. There is a technical error in Section 11 of Senate Bill No. 5581 and the correct date is reflected in the budget bill before us. The date for purposes of calculation is June 30, 2010.”

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute House Bill No. 1087.

#### ROLL CALL

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

The Secretary called the roll on the final passage of Second Engrossed Substitute House Bill No. 1087 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

ENGROSSED SUBSTITUTE SENATE BILL 5931.

SIGNED BY THE PRESIDENT

Voting yea: Senators Baumgartner, Becker, Brown, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Swecker, Tom, White and Zarelli

The President signed:  
ENGROSSED SUBSTITUTE SENATE BILL 5860.

SECOND READING

Voting nay: Senators Baxter, Carrell, Chase, Delvin, Ericksen, Fain, Hill, Holmquist Newbry, Litzow, Pflug, Roach, Sheldon and Stevens

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1497, by House Committee on Capital Budget (originally sponsored by Representatives Dunshee and Warnick)

Excused: Senators Benton and Shin

Adopting a 2011-2013 capital budget. Revised for 1st Substitute: Regarding the capital budget.

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1087, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The measure was read the second time.

MOTION

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2020, by House Committee on Capital Budget (originally sponsored by Representative Dunshee)

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute House Bill No. 1497 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Relating to funding capital projects. Revised for 1st Substitute: Funding capital projects.

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

The measure was read the second time.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1497.

MOTION

ROLL CALL

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute House Bill No. 2020 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1497 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2020.

Excused: Senators Benton and Shin  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1497, 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.

ROLL CALL

MOTION

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2020 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

On motion of Senator Ericksen, Senator Pflug was excused.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Swecker, Tom, White and Zarelli

REMARKS BY THE PRESIDENT

Voting nay: Senator Stevens

President Owen: "Before we go to the next bill the President would like to offer his upmost congratulations to Senator Hobbs. For those of you who don't know, he wasn't here earlier because he was attending his graduation where he received his executive master's in public administration degree from the University of Washington. Congratulations Senator Hobbs."

Excused: Senators Benton and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2020, 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.

REMARKS BY THE PRESIDENT

SIGNED BY THE PRESIDENT

The President signed:

President Owen: “Ladies and gentlemen of the Senate. If the President could have your attention for one minute? You know I’ve been up here doing this for fifteen years but there is one person who works their tail off throughout the session and sometimes I don’t know if I should call her Senator Boss or Mom because she has to deal with forty-eight other people at varying times when they are under great excitement, stress or fear or anxiety and yet she’s there holding down the fort and always here and that’s your Majority Floor Leader, Senator Eide. I just want to say my compliments. You’ve always done a great job. Thank you.”

MOTION

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

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1410,  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

FIFTH SUPPLEMENTAL INTRODUCTION AND FIRST  
READING OF HOUSE BILLS

ESHB 1410 by House Committee on Education (originally sponsored by Representative Santos, Dammeier, Probst and Liias; by request of Public Instruction)

Regarding science end-of course assessments.

MOTION

On motion of Senator Eide and without objection, Engrossed Substitute House Bill No. 1410 was placed on the second reading calendar under suspension of the rules.

MOTION

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

MOTION

On motion of Senator Ericksen, Senators Delvin and Morton were excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1410, by House Committee on Education (originally sponsored by Representatives Santos, Dammeier, Probst and Liias)

Regarding science end-of-course assessments.

The measure was read the second time.

MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute House Bill No. 1410 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray and Schoesler spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1410.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1410 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 3; Absent, 0; Excused, 5.

Voting yea: Senators Baxter, Becker, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Holmquist Newbry and Pridemore

Excused: Senators Benton, Delvin, Morton, Pflug and Shin  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1410, 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 Ericksen, Senator Zarelli was excused.

MOTION

At 9:01 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 10:00 p.m. by President Owen.

MOTION

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

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5834,  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

May 25, 2011

The President declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8403.

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5091,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5919.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5834.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5091,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5919.

MOTION

On motion of Senator Rockefeller, the Senate advanced to the fifth order of business.

FOURTH SUPPLEMENTAL  
INTRODUCTION AND FIRST READING

SCR 8403 by Senators Brown and Hewitt

Returning bills to their house of origin.

SCR 8404 by Senators Brown and Hewitt

Adjourning sine die.

MOTION

On motion of Senator Rockefeller, and without objection, Senate Concurrent Resolution No. 8403 and Senate Concurrent Resolution No. 8404 were placed on the second reading calendar under suspension of the rules.

MOTION

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

SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8403, by Senators Brown and Hewitt

Returning bills to their house of origin.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Senate Concurrent Resolution No. 8403 was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final passage.

SENATE CONCURRENT RESOLUTION NO. 8403, was adopted on third reading by voice vote.

SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8404, by Senators Brown and Hewitt

Adjourning sine die.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Senate Concurrent Resolution No. 8404 was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final passage.

The President declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8404.

SENATE CONCURRENT RESOLUTION NO. 8404, was adopted on third reading by voice vote.

MOTION

On motion of Senator Rockefeller and without objection, the measures on the second and third reading calendars were returned to the Committee on Rules.

MOTION

On motion of Senator Rockefeller, the reading of the Journal for the 30<sup>th</sup> day of the 2011 First Special Session of the 62<sup>nd</sup> Legislature was dispensed with and it was approved.

MOTION

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

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The House has adopted:

SENATE CONCURRENT RESOLUTION NO. 8403,

SENATE CONCURRENT RESOLUTION NO. 8404.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 24, 2011

MR. PRESIDENT:

The House has passed SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1365.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1346,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1410,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1497,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2020,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2065,  
 ENGROSSED HOUSE BILL NO. 2069,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2082,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2088.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1346,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1410,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1497,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2020,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2065,  
 ENGROSSED HOUSE BILL NO. 2069,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2082,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2088.

## MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5091,  
 SECOND SUBSTITUTE SENATE BILL NO. 5459,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5834,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5860,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5919,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5931.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5942.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SENATE CONCURRENT RESOLUTION NO. 8403,  
 SENATE CONCURRENT RESOLUTION NO. 8404.

## MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The Speaker has signed:

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO.  
 1087.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO.  
 1087.

## MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The Speaker has signed:

SENATE CONCURRENT RESOLUTION NO. 8403,  
 SENATE CONCURRENT RESOLUTION NO. 8404.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

Under the provisions of SENATE CONCURRENT  
 RESOLUTION NO. 8403, the following Senate bills were  
 returned to the Senate:

SUBSTITUTE SENATE BILL NO. 5114,  
 SUBSTITUTE SENATE BILL NO. 5222,  
 SECOND ENGROSSED SUBSTITUTE SENATE BILL  
 NO. 5251,  
 SUBSTITUTE SENATE BILL NO. 5534,  
 SECOND SUBSTITUTE SENATE BILL NO. 5539,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5542,  
 SUBSTITUTE SENATE BILL NO. 5587,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL  
 NO. 5669,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5844,  
 SENATE BILL NO. 5852,  
 ENGROSSED SENATE BILL NO. 5873,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5924,  
 SUBSTITUTE SENATE BILL NO. 5935,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5960,  
 SENATE JOINT MEMORIAL NO. 8009,  
 SUBSTITUTE SENATE JOINT RESOLUTION NO. 8215.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

Under the provisions of SENATE CONCURRENT  
 RESOLUTION NO. 8403, the following Senate bills was  
 returned to the Senate:

SENATE JOINT MEMORIAL NO. 8011,

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

At 10:26 p.m., on motion of Senator Rockefeller, the 2011 First Special Session of the Sixty-Second Legislature adjourned SINE DIE.

MOTION

Under the provisions of SENATE CONCURRENT RESOLUTION NO. 8403, the following House Bills were returned to the House of Representatives:

- SUBSTITUTE HOUSE BILL NO. 1250,
- SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1365,
- SUBSTITUTE HOUSE BILL NO. 1632,
- SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1701,
- SUBSTITUTE HOUSE BILL NO. 1815,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 2048,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 2053,
- HOUSE BILL NO. 2111.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

MOTION





THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

:Second Reading .....	6	Speaker Signed .....	150
1087-S		Third Reading Final Passage .....	147
Introduction & 1 <sup>st</sup> Reading .....	1	2048-S	
Messages .....	1	Messages .....	7
Other Action .....	2	Other Action .....	151
President Signed .....	150	2053-S	
Second Reading .....	146	Introduction & 1 <sup>st</sup> Reading .....	7
Speaker Signed .....	150	Messages .....	7
Third Reading Final Passage .....	147	Other Action .....	151
1131		Other Action .....	7
President Signed .....	145	2065-S	
Speaker Signed .....	65	Other Action .....	47, 53
1132-S2		President Signed .....	150
President Signed .....	145	Second Reading .....	41, 47, 53
Speaker Signed .....	65	Speaker Signed .....	150
1250-S		Third Reading Final Passage .....	54
Other Action .....	151	2069	
1346-S		President Signed .....	150
President Signed .....	150	Second Reading .....	145
Second Reading .....	61	Speaker Signed .....	150
Speaker Signed .....	150	Third Reading Final Passage .....	145
Third Reading Final Passage .....	61	2082-S	
1365-S		Messages .....	66
Messages .....	149	Other Action .....	21, 35
1365-S Other Action .....	151	President Signed .....	150
1410-S		Second Reading .....	7, 8, 21
Introduction & 1 <sup>st</sup> Reading .....	148	Speaker Signed .....	150
Messages .....	148	Third Reading Final Passage .....	35
Other Action .....	148	2088-S	
President Signed .....	150	Messages .....	66
Second Reading .....	148	Other Action .....	40
Speaker Signed .....	150	President Signed .....	150
Third Reading Final Passage .....	148	Second Reading .....	35, 39, 40
1497-S		Speaker Signed .....	150
Introduction & 1 <sup>st</sup> Reading .....	41	Third Reading Final Passage .....	40
Messages .....	40	2111	
Other Action .....	41	Other Action .....	151
President Signed .....	150	2119-S	
Second Reading .....	147	President Signed .....	145
Speaker Signed .....	150	Speaker Signed .....	65
Third Reading Final Passage .....	147	5091	
1548-S		Second Reading .....	61
President Signed .....	145	5091-S	
Second Reading .....	6	Messages .....	149
Speaker Signed .....	65	Other Action .....	62
Third Reading Final Passage .....	6	President Signed .....	149
1632-S		Second Reading .....	61
Other Action .....	151	Speaker Signed .....	150
1701-S		Third Reading Final Passage .....	62
Other Action .....	151	5114-S	
1815-S		Other Action .....	150
Other Action .....	151	5181-S	
1981-S		Messages .....	7
President Signed .....	145	President Signed .....	7
Speaker Signed .....	65	Speaker Signed .....	65
2003		5222-S	
President Signed .....	145	Other Action .....	150
Second Reading .....	6	5251-S	
Speaker Signed .....	65	Other Action .....	150
Third Reading Final Passage .....	7	5459-S2	
2020-S		Final Passage as amended by House .....	60
Introduction & 1 <sup>st</sup> Reading .....	41	Messages .....	56
Messages .....	40	Other Action .....	60
President Signed .....	150	President Signed .....	65
Second Reading .....	147	Speaker Signed .....	150

5534-S	Other Action..... 150	Other Action..... 5, 60	President Signed ..... 65
5539-S2	Other Action..... 150	5960-S	Speaker Signed ..... 150
5542-S	Other Action..... 150	5962	Other Action..... 150
5587-S	Other Action..... 150	5963	Introduction & 1 <sup>st</sup> Reading ..... 1
5669-S2	Other Action..... 150	5964	Introduction & 1 <sup>st</sup> Reading ..... 1
5742-S	Speaker Signed ..... 65	8009	Introduction & 1 <sup>st</sup> Reading ..... 1
5749-S	Speaker Signed ..... 65	8011	Other Action..... 150
5764	Speaker Signed ..... 65	8215-S	Introduction & 1 <sup>st</sup> Reading ..... 1
5834-S	Messages..... 148		Other Action..... 2, 150
	President Signed ..... 149		Second Reading ..... 61
	Speaker Signed ..... 150		Third Reading Final Passage ..... 61
5844-S	Other Action..... 150	8403	Other Action..... 150
5846-S	Messages..... 5		Adopted..... 149
5852	Other Action..... 150		Introduction & 1 <sup>st</sup> Reading ..... 149
5860	Second Reading ..... 6		Messages..... 149
5860-S	Messages..... 65		Other Action..... 149
	President Signed ..... 147		President Signed ..... 150
	Second Reading ..... 6		Second Reading ..... 149
	Speaker Signed ..... 150		Speaker Signed ..... 150
	Third Reading Final Passage ..... 6	8404	Adopted..... 149
5873	Other Action..... 150		Introduction & 1 <sup>st</sup> Reading ..... 149
5891-S	Final Passage as amended by House ..... 3		Messages..... 149
	Messages..... 2		Other Action..... 149
	Other Action..... 2		Second Reading ..... 149
	President Signed ..... 7		Speaker Signed ..... 150
	Speaker Signed ..... 65	PRESIDENT OF THE SENATE	
5919	Second Reading ..... 54		Remarks by the President ..... 65, 145, 147, 148
5919-S	Messages..... 149		Reply by the President..... 60, 146
	President Signed ..... 149		Ruling by the President, ESSB 5942 ..... 60
	Second Reading ..... 54	WASHINGTON STATE SENATE	
	Speaker Signed ..... 150		Parliamentary Inquiry, Senator Stevens ..... 60
	Third Reading Final Passage ..... 56		Personal Privilege, Senator Brown ..... 146
5924-S	Other Action..... 150		Personal Privilege, Senator Delvin ..... 63
5931-S	Final Passage as amended by House ..... 144		Personal Privilege, Senator Eide..... 61, 63
	Messages..... 66		Personal Privilege, Senator Ericksen ..... 64
	Other Action..... 144		Personal Privilege, Senator Fraser..... 64
	President Signed ..... 147		Personal Privilege, Senator Hargrove..... 63
	Speaker Signed ..... 150		Personal Privilege, Senator Kilmer..... 63
5935-S	Other Action..... 150		Personal Privilege, Senator Kohl-Welles ..... 65
5942-S	Final Passage as amended by House ..... 60		Personal Privilege, Senator McAuliffe..... 65
	Messages..... 3		Personal Privilege, Senator Nelson..... 64
			Personal Privilege, Senator Pflug ..... 64
			Personal Privilege, Senator Ranker ..... 65
			Personal Privilege, Senator Roach..... 63
			Personal Privilege, Senator Rockefeller ..... 62
			Personal Privilege, Senator Sheldon..... 64
			Personal Privilege, Senator Swecker ..... 64
			Point of Inquiry, Senator Hatfield ..... 53
			Point of Inquiry, Senator Keiser ..... 146
			Point of Inquiry, Senator Regala ..... 35
			Point of Inquiry, Senator Roach ..... 55
			Point of Order, Senator Tom ..... 5

