ONE HUNDRED FIRST DAY

House Chamber, Olympia, Wednesday, April 20, 2005

The House was called to order at 10:00 a.m. by the Speaker (Representative Lovick presiding). The Clerk called the roll and a quorum was present.

The flag was escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Micah Zech and Caitlin Cutting. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. Prayer was offered by Pastor Randy Thyberg, Grace Community Covenant Church, Olympia.

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

RESOLUTION

HOUSE RESOLUTION NO. 2005-4671, By Representatives Kenney, Skinner, Flannigan and McDermott

WHEREAS, The Mexican community in the State of Washington celebrates, on the 5th of May, their fight against the French; and

WHEREAS, Every year this celebration has been growing and today is celebrated all over the State; and

WHEREAS, The leader of the opposition to the foreign invasion was the Mexican President Benito Juárez; and

WHEREAS, Benito Juárez was a poor Zapotec Indian orphaned child, who learned Spanish and through his dedication to study and hard work, was able to overcome poverty and discrimination and became an outstanding lawyer who reached the highest offices in his country including Supreme Court Chief, Governor, and President of Mexico. He created innumerable laws defending the rights of the Mexican people. The year 2006 will mark the 200th anniversary of the birth of Benito Juárez; and

WHEREAS, Benito Juárez served as an example for people of all Latin-American countries, and for this reason he was proclaimed "Benemérito of the Americas"; and

WHEREAS, Benito Juárez is a magnificent example of how dedication to study, hard work, and service to society can help overcome poverty, ignorance, and discrimination;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives congratulate the Latino community on the occasion of Cinco de Mayo and for recognizing and honoring Benito Juárez for the example he has set and his fight for social justice; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Conexión Latina, Centro Latino, Centro Mexicano, and Grupo Mexico.

HOUSE RESOLUTION NO. 4671 was adopted.

MESSAGES FROM THE SENATE

April 20, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SENATE BILL NO. 6096, and the same is herewith transmitted.

Thomas Hoemann, Secretary

April 19, 2005

Mr. Speaker:

The President has signed:

SENATE BILL NO. 5039,
SENATE BILL NO. 5274,
SUBSTITUTE SENATE BILL NO. 6014,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 19, 2005

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE CONCURRENT RESOLUTION NO 4410, and the same is herewith transmitted.

Thomas Hoemann, Secretary

April 19, 2005

Mr. Speaker:

The President has signed:

SUBSTITUTE SENATE BILL NO. 5112,
SENATE BILL NO. 5196,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5441,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5577,
ENGROSSED SENATE BILL NO. 5583,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5599,
SUBSTITUTE SENATE BILL NO. 5631,
SUBSTITUTE SENATE BILL NO. 5692,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5806,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5872,
SENATE BILL NO. 5898,
SUBSTITUTE SENATE BILL NO. 5899,
SENATE BILL NO. 5979,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5983,
SUBSTITUTE SENATE BILL NO. 5992,

SUBSTITUTE SENATE BILL NO. 6022,
and the same are herewith transmitted.
Thomas Hoemann, Secretary

April 19, 2005

Mr. Speaker:

The President has signed:
ENGROSSED SUBSTITUTE SENATE BILL NO. 5158,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5470,
SENATE BILL NO. 5522,
SUBSTITUTE SENATE BILL NO. 5558,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5699,
SUBSTITUTE SENATE BILL NO. 5841,
ENGROSSED SUBSTITUTE SENATE JOINT MEMORIAL NO. 8010,
and the same are herewith transmitted.
Thomas Hoemann, Secretary

INTRODUCTION & FIRST READING

ESB 6096 By Senators Poulsen, Fraser and Prentice; by request of Governor Gregoire

AN ACT Relating to generating new tax revenues to provide education funding; amending RCW 83.100.020, 83.100.040, 83.100.050, 83.100.060, 83.100.070, 83.100.090, 83.100.110, 83.100.130, 83.100.140, 83.100.150, 83.100.210, and 83.100.010; adding new sections to chapter 83.100 RCW; creating new sections; repealing RCW 83.100.030 and 83.100.045; and declaring an emergency.

Referred to Committee on Finance.

There being no objection, the bill listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated.

REPORTS OF STANDING COMMITTEES

April 18, 2005

HB 1041 Prime Sponsor, Representative Sommers: Revising the nursing facility medicaid payment system. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Sommers, Chairman; Fromhold, Vice Chairman; Alexander, Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Clements; Cody; Conway; Darneille; Dunshee; Grant; Haigh; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McIntire; Miloscia; Pearson; Schual-Berke and Talcott.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Armstrong; Bailey; Buri; Clements; Kagi; McDonald; Pearson; Priest; Talcott and Walsh.

April 18, 2005

HB 1044 Prime Sponsor, Representative Sommers: Changing pension funding methodology. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Sommers, Chairman; Fromhold, Vice Chairman; Cody; Conway; Darneille; Dunshee; Grant; Haigh; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McIntire; Miloscia and Schual-Berke.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Armstrong; Bailey; Buri; Clements; McDonald; Pearson; Priest; Talcott and Walsh.

April 18, 2005

HB 1066 Prime Sponsor, Representative McDermott: Revising learning assistance program distribution formula. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Sommers, Chairman; Fromhold, Vice Chairman; Alexander, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Armstrong; Bailey; Buri; Clements; Cody; Conway; Darneille; Dunshee; Grant; Haigh; Hunter; Kagi; Kenney; Kessler; Linville; McDermott; McDonald; McIntire; Miloscia; Pearson; Priest; Schual-Berke; Talcott and Walsh.

April 13, 2005

HB 2299 Prime Sponsor, Representative Dunshee: Issuing general obligation bonds. Reported by Committee on Capital Budget

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Dunshee, Chairman; Ormsby, Vice Chairman; Jarrett, Ranking Minority Member; Hankins, Assistant Ranking Minority Member; Blake; Chase; Cox; DeBolt; Eickmeyer; Ericks; Ericksen; Flannigan; Green; Hasegawa; Kretz; Lantz; McCune; Moeller; Morrell; Newhouse; O'Brien; Roach; Schual-Berke; Serben; Springer; Strow and Upthegrove.

MINORITY recommendation: Do not pass. Signed by Representatives Holmquist and Kristiansen.

Passed to Committee on Rules for second reading.

There being no objection, the bills listed on the day's committee reports sheet under the fifth order of business were placed on the Second Reading calendar.

APPOINTMENT OF CONFEREES

The Speaker (Representative Lovick presiding) appointed Representatives Linville, Kristiansen and Ericks as conferees on SECOND SUBSTITUTE SENATE BILL NO. 5370.

MESSAGES FROM THE SENATE

April 19, 2005

Mr. Speaker:

The President has signed ENGROSSED SUBSTITUTE SENATE BILL NO. 5395, and the same is herewith transmitted.

Thomas Hoemann, Secretary

April 19, 2005

Mr. Speaker:

The Senate concurred in the House amendments to the following bills and passed the bills as amended by the House:
SENATE BILL NO. 5039,
SENATE BILL NO. 5274,
SUBSTITUTE SENATE BILL NO. 6014,
and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 19, 2005

Mr. Speaker:

The President has signed:
ENGROSSED SUBSTITUTE SENATE BILL NO. 5308,
SUBSTITUTE SENATE BILL NO. 5708,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5719,
and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 20, 2005

Mr. Speaker:

The Senate concurred in the House amendments to ENGROSSED SUBSTITUTE SENATE BILL NO. 5396, passed the bills as amended by the House.

Thomas Hoemann, Secretary

April 19, 2005

Mr. Speaker:

The Senate concurred in the House amendments to the following bills and passed the bills as amended by the House:
ENGROSSED SENATE BILL NO. 5049,
SENATE BILL NO. 5321,
ENGROSSED SENATE BILL NO. 5418,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5788,
SENATE BILL NO. 6033,
and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 19, 2005

Mr. Speaker:

The Senate concurred in the House amendments to the following bills and passed the bills as amended by the House:
SUBSTITUTE SENATE BILL NO. 5914,
ENGROSSED SENATE BILL NO. 5962,
and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 19, 2005

Mr. Speaker:

The Senate has granted the request of the House for a Conference on SUBSTITUTE HOUSE BILL NO. 1791. The President has appointed the following members as conferees: Senators Prentice, Regala and Zarelli.

Thomas Hoemann, Secretary

There being no objection, the Rules Committee was relieved of HOUSE BILL NO. 2299, and the bill was placed on the Second Reading calendar.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1058, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that, despite explicit statements in statute that the consent of a minor child is not required for a parent-initiated admission to inpatient or outpatient mental health treatment, treatment providers consistently refuse to accept a minor aged thirteen or over if the minor does not also consent to treatment. The legislature intends that the parent-initiated treatment provisions, with their accompanying due process provisions for the minor, be made fully available to parents.

NEW SECTION. **Sec. 2.** A new section is added to chapter 71.34 RCW to read as follows:

A minor child shall have no cause of action against an evaluation and treatment facility, inpatient facility, or provider of outpatient mental health treatment for admitting or accepting the minor in good faith for evaluation or treatment under RCW 71.34.052 or 71.34.054 based solely upon the minor's lack of consent if the minor's parent has consented to the evaluation or treatment.

Sec. 3. RCW 71.34.052 and 1998 c 296 s 17 are each amended to read as follows:

(1) A parent may bring, or authorize the bringing of, his or her minor child to an evaluation and treatment facility or an inpatient facility and request that the professional person examine the minor to determine whether the minor has a mental disorder and is in need of inpatient treatment.

(2) The consent of the minor is not required for admission, evaluation, and treatment if the parent brings the minor to the facility.

(3) An appropriately trained professional person may evaluate whether the minor has a mental disorder. The evaluation shall be completed within twenty-four hours of the time the minor was brought to the facility, unless the professional person determines that the condition of the minor necessitates additional time for evaluation. In no event shall a minor be held longer than seventy-two hours for evaluation. If, in the judgment of the professional person, it is determined it is a medical necessity for the minor to receive inpatient treatment, the minor may be held for treatment. The facility shall limit treatment to that which the professional person determines is medically necessary to stabilize the minor's condition until the evaluation has been completed. Within twenty-four hours of completion of the evaluation, the professional person shall notify the department if the child is held for treatment and of the date of admission.

(4) No provider is obligated to provide treatment to a minor under the provisions of this section except that no provider may refuse to treat a minor under the provisions of this section solely on the basis that the minor has not consented to the treatment. No provider may admit a minor to treatment under this section unless it is medically necessary.

(5) No minor receiving inpatient treatment under this section may be discharged from the facility based solely on his or her request.

(6) Prior to the review conducted under RCW 71.34.025, the professional person shall notify the minor of his or her right to petition superior court for release from the facility.

(((~~(7) For the purposes of this section "professional person" does not include a social worker, unless the social worker is certified under RCW 18.19.110 and appropriately trained and qualified by education and experience, as defined by the department, in psychiatric social work.~~))

NEW SECTION. **Sec. 4.** (1) The code reviser shall recodify, as necessary, the following sections of chapter 71.34 RCW in the following order, using the indicated subchapter headings:

General
71.34.010
71.34.020
71.34.140
71.34.032
71.34.250
71.34.280
71.34.260
71.34.240
71.34.230
71.34.210
71.34.200
71.34.225
71.34.220
71.34.160
71.34.190
71.34.170
71.34.290
71.34.056
71.34.800
71.34.805
71.34.810
71.34.015
71.34.027
71.34.130
71.34.270
Minor-Initiated Treatment
71.34.042
71.34.044
71.34.046
71.34.030
Parent-Initiated Treatment
71.34.052
71.34.025
71.34.162
71.34.164
71.34.035
71.34.054
Involuntary Commitment
71.34.040
71.34.050
71.34.060
71.34.070
71.34.080
71.34.090
71.34.100
71.34.120
71.34.110
71.34.150
71.34.180
Technical
71.34.900
71.34.901

(2) The code reviser shall correct all statutory references to sections recodified by this section."

On page 1, line 1 of the title, after "minors;" strike the remainder of the title and insert "amending RCW 71.34.052; adding new sections to chapter 71.34 RCW; creating a new section; and recodifying RCW 71.34.010, 71.34.020, 71.34.140, 71.34.032, 71.34.250, 71.34.280, 71.34.260, 71.34.240, 71.34.230, 71.34.210, 71.34.200, 71.34.225, 71.34.220, 71.34.160, 71.34.190, 71.34.170, 71.34.290, 71.34.056, 71.34.800, 71.34.805, 71.34.810, 71.34.015, 71.34.027, 71.34.130, 71.34.270, 71.34.042, 71.34.044, 71.34.046, 71.34.030, 71.34.052, 71.34.025, 71.34.162, 71.34.164, 71.34.035, 71.34.054, 71.34.040, 71.34.050, 71.34.060, 71.34.070, 71.34.080, 71.34.090, 71.34.100, 71.34.120, 71.34.110, 71.34.150, 71.34.180, 71.34.900, and 71.34.901."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House refused to concur in the Senate Amendment to SUBSTITUTE HOUSE BILL NO. 1058 and asked the Senate to recede therefrom.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 1222, with the following amendment:

On page 2, after line 7, insert "The following declaration must be printed on the reverse side of the petition:".

On page 3, after line 6, insert "The following declaration must be printed on the reverse side of the petition:".

On page 4, after line 7, insert "The following declaration must be printed on the reverse side of the petition:".

On page 2, after line 18, insert the following:

"RCW 9A.46.020 applies to any conduct constituting harassment against a petition signature gatherer. This penalty does not preclude the victim from seeking any other remedy otherwise available under law."

On page 3, after line 17, insert the following:

"RCW 9A.46.020 applies to any conduct constituting harassment against a petition signature gatherer. This penalty does not preclude the victim from seeking any other remedy otherwise available under law."

On page 4, after line 18, insert the following:

"RCW 9A.46.020 applies to any conduct constituting harassment against a petition signature gatherer. This penalty does not preclude the victim from seeking any other remedy otherwise available under law."

Renumber the sections consecutively and correct any internal references accordingly.

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 1222 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives McDermott and Nixon spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed House Bill No. 1222 as amended by the Senate.

MOTIONS

On motion of Representative Clements, Representatives Armstrong, Chandler and Condotta were excused.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1222, as amended by the Senate and the bill passed the House by the following vote: Yeas - 85, Nays - 10, Absent - 0, Excused - 3.

Voting yea: Representatives Alexander, Anderson, Appleton, Bailey, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Conway, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schual-Berke, Sells, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 85.

Voting nay: Representatives Ahern, Cox, Crouse, Dunn, Ericksen, Hinkle, O'Brien, Orcutt, Schindler, and Serben - 10.

Excused: Representatives Armstrong, Chandler and Condotta - 3.

ENGROSSED HOUSE BILL NO. 1222, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 13, 2005

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1247, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.91.040 and 1965 c 7 s 35.91.040 are each amended to read as follows:

((~~No~~)) (1) A person, firm, or corporation ((~~shall~~)) may not be granted a permit or be authorized to tap into, or use any such water or sewer facilities or extensions thereof during the period of time prescribed in such contract without first paying to the municipality, in addition to any and all other costs and charges made or assessed for such tap, or use, or for the water lines or sewers constructed in connection therewith, the amount required by the provisions of the contract under which the water or sewer facilities so tapped into or used were constructed. All amounts so received by the municipality shall be paid out by it under the terms of such contract within sixty days after the receipt thereof. Whenever any tap or connection is made into any such contracted water or sewer facilities without such payment having first been made, the governing body of the municipality may remove, or cause to be removed, such unauthorized tap or connection and all connecting tile, or pipe located in the facility right of way and dispose of unauthorized material so removed without any liability whatsoever.

(2) A tap or connection charge under this section for service to a manufactured housing community, as defined in RCW 59.20.030, applies to an individual lot within that community only if the municipality provides and maintains the tap-in connection.

Sec. 2. RCW 36.94.140 and 2003 c 394 s 4 are each amended to read as follows:

(1) Every county, in the operation of a system of sewerage and/or water, shall have full jurisdiction and authority to manage, regulate, and control it. Except as provided in subsection (3) of this section, every county shall have full jurisdiction and authority to fix, alter, regulate, and control the rates and charges for the service and facilities to those to whom such service and facilities are available, and to levy charges for connection to the system.

(2) The rates for availability of service and facilities, and connection charges so charged must be uniform for the same class of customers or service and facility. In classifying customers served, service furnished or made available by such system of sewerage and/or water, or the connection charges, the county legislative authority may consider any or all of the following factors:

(a) The difference in cost of service to the various customers within or without the area;

(b) The difference in cost of maintenance, operation, repair and replacement of the various parts of the systems;

(c) The different character of the service and facilities furnished various customers;

(d) The quantity and quality of the sewage and/or water delivered and the time of its delivery;

(e) Capital contributions made to the system or systems, including, but not limited to, assessments;

(f) The cost of acquiring the system or portions of the system in making system improvements necessary for the public health and safety;

(g) The nonprofit public benefit status, as defined in RCW 24.03.490, of the land user; and

(h) Any other matters which present a reasonable difference as a ground for distinction.

(3) The rate a county may charge under this section for storm or surface water sewer systems or the portion of the rate allocable to the storm or surface water sewer system of combined sanitary sewage and storm or surface water sewer systems shall be reduced by a minimum of ten percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system. Rainwater harvesting systems shall be properly sized to utilize the available roof surface of the building. The jurisdiction shall consider rate reductions in excess of ten percent dependent upon the amount of rainwater harvested.

(4) A county may provide assistance to aid low-income persons in connection with services provided under this chapter.

(5) The service charges and rates shall produce revenues sufficient to take care of the costs of maintenance and operation, revenue bond and warrant interest and principal amortization requirements, and all other charges necessary for the efficient and proper operation of the system.

(6) A connection charge under this section for service to a manufactured housing community, as defined in RCW 59.20.030, applies to an individual lot within that community only if the system of water or sewerage provides and maintains the connection."

On page 1, line 2 of the title, after "connections;" strike the remainder of the title and insert "and amending RCW 35.91.040 and 36.94.140."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1247 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Miloscia and Schindler spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of House Bill No. 1247 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1247, as amended by the Senate and the bill passed the House by the following vote: Yeas - 94, Nays - 1, Absent - 0, Excused - 3.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Bailey, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 94.

Voting nay: Representative Dickerson - 1.

Excused: Representatives Armstrong, Chandler and Condotta - 3.

HOUSE BILL NO. 1247, as amended by the Senate having received the constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote YEA on HOUSE BILL NO. 1247.

MARY LOU DICKERSON, 36th District

SENATE AMENDMENTS TO HOUSE BILL

April 8, 2005

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1254, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 46.16 RCW to read as follows:

(1) The legislature recognizes that the "Share the Road" license plate has been reviewed by the special license plate review board under RCW 46.16.725, and found to fully comply with RCW 46.16.715 through 46.16.775.

(2) The department shall issue a special license plate displaying a symbol or artwork, approved by the special license plate review board and the legislature, recognizing an organization that promotes bicycle safety and awareness education. The special license plate may be used in lieu of regular or personalized license plates for vehicles required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The special plates will commemorate the life of Cooper Jones.

NEW SECTION. **Sec. 2.** A new section is added to chapter 46.04 RCW to read as follows:

"Share the Road license plates" means license plates that commemorate the life of Cooper Jones and display a symbol of an organization that promote bicycle safety and awareness education in communities throughout Washington.

Sec. 3. RCW 46.16.313 and 2004 c 221 s 3, 2004 c 48 s 3, and 2004 c 35 s 3 are each reenacted and amended to read as follows:

(1) The department may establish a fee of no more than forty dollars for each type of special license plates issued under RCW 46.16.301(1) (a), (b), or (c), as existing before amendment by section 5, chapter 291, Laws of 1997, in an amount calculated to offset the cost of production of the special license plates and the administration of this program. This fee is in addition to all other fees required to register and license the vehicle for which the plates have been requested. All such additional special license plate fees collected by the department shall be deposited in the state treasury and credited to the motor vehicle fund.

(2) In addition to all fees and taxes required to be paid upon application and registration of a motor vehicle, the holder of a collegiate license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. The state treasurer shall credit the funds to the appropriate collegiate license plate fund as provided in RCW 28B.10.890.

(3) In addition to all fees and taxes required to be paid upon renewal of a motor vehicle registration, the holder of a collegiate license plate shall pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. The state treasurer shall credit the funds to the appropriate collegiate license plate fund as provided in RCW 28B.10.890.

(4) In addition to all fees and taxes required to be paid upon application and registration of a motor vehicle, the holder of a special baseball stadium license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds, minus the cost of plate production, shall be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

(5) In addition to all fees and taxes required to be paid upon renewal of a motor vehicle registration, the holder of a special baseball stadium license plate shall pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

(6) Effective with vehicle registrations due or to become due on January 1, 2005, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a professional fire fighters and paramedics license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the professional fire fighters and paramedics license plates. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the Washington State Council of Fire Fighters benevolent fund established under RCW 46.16.30902.

(7) Effective with annual renewals due or to become due on January 1, 2006, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a professional fire fighters and paramedics license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the professional fire fighters and paramedics special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the Washington State Council of Fire Fighters benevolent fund established under RCW 46.16.30902.

(8) Effective with vehicle registrations due or to become due on November 1, 2004, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Helping Kids Speak" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must

be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Helping Kids Speak" special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Helping Kids Speak" account established under RCW 46.16.30904.

(9) Effective with annual renewals due or to become due on November 1, 2005, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Helping Kids Speak" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Helping Kids Speak" special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Helping Kids Speak" account established under RCW 46.16.30904.

(10) Effective with vehicle registrations due or to become due on January 1, 2005, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "law enforcement memorial" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the law enforcement memorial special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the law enforcement memorial account established under RCW 46.16.30906.

(11) Effective with annual renewals due or to become due on January 1, 2006, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "law enforcement memorial" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. Pursuant to RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the law enforcement memorial special license plate. Upon the determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the law enforcement memorial account established under RCW 46.16.30906.

(12)(a) Effective with vehicle registrations due or to become due on or after January 1, 2006, in addition to all fees and taxes required to be paid upon application and registration of a vehicle, the holder of a "Share the Road" license plate shall pay an initial fee of forty dollars. The department shall deduct an amount not to exceed twelve dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Share the Road" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Share the Road" account established under section 4 of this act.

(b) Effective with annual renewals due or to become due on or after January 1, 2007, in addition to all fees and taxes required to be paid upon renewal of a vehicle registration, the holder of a "Share the Road" license plate shall, upon application, pay a fee of thirty dollars. The department shall deduct an amount not to exceed two dollars of each fee collected under this subsection for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer with a proper identifying detailed report. Under RCW 46.16.755, the state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the "Share the Road" license plate. Upon determination by the department that the state has been reimbursed, the treasurer shall credit the proceeds to the "Share the Road" account established under section 4 of this act.

NEW SECTION. **Sec. 4.** A new section is added to chapter 46.16 RCW to read as follows:

(1) The "Share the Road" account is created in the custody of the state treasurer. Upon the department's determination that the state had been reimbursed for the cost of implementing the "Share the Road" special license plate, all receipts, except as provided in RCW 46.16.313(12) (a) and (b), from "Share the Road" license plates must be deposited into the account. Only the director of the department of licensing 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) Funds in the account must be disbursed subject to the following conditions and limitations:

(a) Under the requirements set out in RCW 46.16.765, the department must contract with a qualified nonprofit organization to promote bicycle safety and awareness education in communities throughout Washington.

(b) For the purpose of this section, a "qualified nonprofit organization" means a not-for-profit corporation incorporated and of tax exempt status under section 501(c)(3) of the federal internal revenue code. The organization must promote bicycle safety and awareness education in communities throughout Washington.

(c) The qualified nonprofit organization must meet all requirements set out in RCW 46.16.765.

Sec. 5. RCW 46.16.333 and 2002 c 264 s 3 are each amended to read as follows:

In cooperation with the Washington state patrol and the department of licensing, the traffic safety commission shall create and design, and the department shall issue, Cooper Jones license plate emblems displaying a symbol of bicycle safety that may be used on motor vehicles required to display two motor vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. These license plate emblems will fund the Cooper Jones act and provide funding for bicyclist and pedestrian safety education, enforcement, and encouragement.

Any person may purchase Cooper Jones license plate emblems. The emblems are to be displayed on the vehicle license plates in the

manner described by the department, existing vehicular licensing procedures, and current laws. The fee for Cooper Jones emblems shall be twenty-five dollars. All moneys collected shall first go to the department to be deposited into the motor vehicle fund until all expenses of designing and producing the emblems are recovered. Thereafter, the department shall deduct an amount not to exceed five dollars of each fee collected for Cooper Jones emblems for administration and collection expenses. The remaining proceeds shall be remitted to the custody of the state treasurer with a proper identifying detailed report. The state treasurer shall credit the proceeds to the ((~~bicycle and pedestrian safety account as established in RCW 43.59.150~~)) "Share the Road" account established under section 4 of this act.

Sec. 6. RCW 43.59.150 and 1999 c 372 s 9 and 1999 c 351 s 1 are each reenacted and amended to read as follows:

(((~~(1)~~))) The Washington state traffic safety commission shall establish a program for improving bicycle and pedestrian safety, and shall cooperate with the stakeholders and independent representatives to form an advisory committee to develop programs and create public private partnerships which promote bicycle and pedestrian safety.

(((~~(2) The bicycle and pedestrian safety account is created in the state treasury to support bicycle and pedestrian education or safety programs.~~)))

NEW SECTION. **Sec. 7.** Section 6 of this act takes effect June 30, 2007."

In line 1 of the title, after "plate" strike the remainder of the title and insert "to commemorate Cooper Jones; amending RCW 46.16.333; reenacting and amending RCW 46.16.313 and 43.59.150; adding new sections to chapter 46.16 RCW; adding a new section to chapter 46.04 RCW; and providing an effective date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1254 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Wood and Woods spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of House Bill No. 1254 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1254, as amended by the Senate and the bill passed the House by the following vote: Yeas - 89, Nays - 6, Absent - 0, Excused - 3.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Bailey, Blake, Buri, Campbell, Chase, Clements, Clibborn, Cody, Conway, Cox, Crouse, Curtis, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Wood, Woods and Mr. Speaker - 89.

Voting nay: Representatives Buck, Darneille, Hankins, Kretz, Sump, and Williams - 6.

Excused: Representatives Armstrong, Chandler and Condotta - 3.

HOUSE BILL NO. 1254, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1266, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** It is the intent of the legislature to promote the safety of drivers and passengers on Washington roads and public transportation systems. To this end, Washington has established a reporting requirement for employers of commercial drivers who test positive for unlawful substances. The legislature recognizes that transit operators and their employers are an asset to the public transportation system and continuously strive to provide a safe and efficient mode of travel. In light of this, the legislature further intends that the inclusion of transit employers in the reporting requirements serve only to enhance the current efforts of these dedicated employers and employees as they continue to provide a safe public transportation system to the citizens of Washington.

Sec. 2. RCW 46.25.010 and 2004 c 187 s 2 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Alcohol" means any substance containing any form of alcohol, including but not limited to ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(a) The number of grams of alcohol per one hundred milliliters of blood; or

(b) The number of grams of alcohol per two hundred ten liters of breath.

(3) "Commercial driver's license" (CDL) means a license issued in accordance with the requirements of this chapter to an individual

that authorizes the individual to drive a class of commercial motor vehicle.

(4) The "commercial driver's license information system" (CDLIS) is the information system established pursuant to the CMVSA to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial driver's instruction permit" means a permit issued under RCW 46.25.060(5).

(6) "Commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property:

(a) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds;

(b) If the vehicle is designed to transport sixteen or more passengers, including the driver;

(c) If the vehicle is transporting hazardous materials as defined in this section; or

(d) If the vehicle is a school bus regardless of weight or size.

(7) "Conviction" has the definition set forth in RCW 46.20.270.

(8) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and 46.25.120, "drive" includes operation or physical control of a motor vehicle anywhere in the state.

(10) "Drugs" are those substances as defined by RCW 69.04.009, including, but not limited to, those substances defined by 49 C.F.R. 40.3.

(11) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(12) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single or a combination or articulated vehicle, or the registered gross weight, where this value cannot be determined. The GVWR of a combination or articulated vehicle, commonly referred to as the "gross combined weight rating" or GCWR, is the GVWR of the power unit plus the GVWR of the towed unit or units.

(13) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73.

(14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(15) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

(16) "Positive alcohol confirmation test" means an alcohol confirmation test that:

(a) Has been conducted by a breath alcohol technician under 49 C.F.R. 40; and

(b) Indicates an alcohol concentration of 0.04 or more.

A report that a person has refused an alcohol test, under circumstances that constitute the refusal of an alcohol test under 49 C.F.R. 40, will be considered equivalent to a report of a positive alcohol confirmation test for the purposes of this chapter.

(17) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(((~~(17)~~))) (18) "Serious traffic violation" means:

(a) Excessive speeding, defined as fifteen miles per hour or more in excess of the posted limit;

(b) Reckless driving, as defined under state or local law;

(c) A violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

(d) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(e) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession; however, any individual who provides proof to the court by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, is not guilty of a "serious traffic offense";

(f) Driving a commercial motor vehicle without the proper class of commercial driver's license endorsement or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported; and

(g) Any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, that the department determines by rule to be serious.

(((~~(18)~~))) (19) "State" means a state of the United States and the District of Columbia.

(((~~(19)~~))) (20) "Substance abuse professional" means an alcohol and drug specialist meeting the credentials, knowledge, training, and continuing education requirements of 49 C.F.R. 40.281.

(21) "Tank vehicle" means a vehicle that is designed to transport a liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Tank vehicles include, but are not limited to cargo tanks and portable tanks. However, this definition does not include portable tanks having a rated capacity under one thousand gallons.

(((~~(20)~~))) (22) "United States" means the fifty states and the District of Columbia.

(23) "Verified positive drug test" means a drug test result or validity testing result from a laboratory certified under the authority of the federal department of health and human services that:

(a) Indicates a drug concentration at or above the cutoff concentration established under 49 C.F.R. 40.87; and

(b) Has undergone review and final determination by a medical review officer.

A report that a person has refused a drug test, under circumstances that constitute the refusal of a federal department of transportation drug test under 49 C.F.R. 40, will be considered equivalent to a report of a verified positive drug test for the purposes of this chapter.

Sec. 3. RCW 46.25.123 and 2002 c 272 s 1 are each amended to read as follows:

(1) All medical review officers or breath alcohol technicians hired by or under contract to a motor carrier or employer who employs drivers who operate commercial motor vehicles and who is required to have a testing program conducted under the procedures established by 49 C.F.R. ((~~382~~)) 40 or to a consortium the carrier or employer belongs to, as defined in 49 C.F.R. ((~~382.17~~)) 40.3, shall report the finding of a commercial motor vehicle driver's ((~~confirmed~~)) verified positive drug test or positive alcohol confirmation test to the department of licensing on a form provided

by the department. If the employer is required to have a testing program under 49 C.F.R. 655, a report of a verified positive drug test or positive alcohol confirmation test must not be forwarded to the department under this subsection unless the test is a pre-employment drug test conducted under 49 C.F.R. 655.41 or a pre-employment alcohol test conducted under 49 C.F.R. 655.42.

(2)(a) A motor carrier or employer who employs drivers who operate commercial motor vehicles and who is required to have a testing program conducted under the procedures established by 49 C.F.R. 40, or the consortium the carrier or employer belongs to, must report a refusal by a commercial motor vehicle driver to take a drug or alcohol test, under circumstances that constitute the refusal of a test under 49 C.F.R. 40 and where such refusal has not been reported by a medical review officer or breath alcohol technician, to the department of licensing on a form provided by the department.

(b) An employer who is required to have a testing program under 49 C.F.R. 655 must report a commercial motor vehicle driver's verified positive drug test or a positive alcohol confirmation test when: (i) The driver's employment has been terminated or the driver has resigned; (ii) any grievance process, up to but not including arbitration, has been concluded; and (iii) at the time of termination or resignation the driver has not been cleared to return to safety-sensitive functions.

(3) Motor carriers, employers, or consortiums shall make it a written condition of their contract or agreement with a medical review officer or breath alcohol technician, regardless of the state where the medical review officer or breath alcohol technician is located, that the medical review officer or breath alcohol technician is required to report all Washington state licensed drivers who have a ((~~confirmed~~)) verified positive drug test or positive alcohol confirmation test to the department of licensing within three business days of the ((~~confirmed test~~)) verification or confirmation. Failure to obtain this contractual condition or agreement with the medical review officer or breath alcohol technician by the motor carrier, employer, or consortium, or failure to report a refusal as required by subsection (2) of this section, will result in an administrative fine as provided in RCW 46.32.100 or 81.04.405.

(4) Substances obtained for testing may not be used for any purpose other than drug or alcohol testing under 49 C.F.R. ((~~382~~)) 40.

Sec. 4. RCW 46.25.125 and 2002 c 272 s 2 are each amended to read as follows:

(1) When the department of licensing receives a report from a medical review officer ((~~or~~)), breath alcohol technician, employer, contractor, or consortium that ((~~the holder of a commercial driver's license~~)) a driver has a ((~~confirmed~~)) verified positive drug test or positive alcohol confirmation test, ((~~either~~)) as part of the testing program ((~~required by~~)) conducted under 49 C.F.R. ((~~382 or as part of a preemployment drug test~~)) 40, the department shall disqualify the driver from driving a commercial motor vehicle under RCW 46.25.090(7) subject to a hearing as provided in this section. The department shall notify the person in writing of the disqualification by first class mail. The notice must explain the procedure for the person to request a hearing.

(2) A person disqualified from driving a commercial motor vehicle for having a ((~~confirmed~~)) verified positive drug test or positive alcohol confirmation test may request a hearing to challenge the disqualification within twenty days from the date notice is given. If the request for a hearing is mailed, it must be postmarked within twenty days after the department has given notice of the disqualification.

(3) The hearing must be conducted in the county of the person's residence, except that the department may conduct all or part of the hearing by telephone or other electronic means.

(4) For the purposes of this section, or for the purpose of a hearing de novo in an appeal to superior court, the hearing must be limited to the following issues: (a) Whether the driver is the person who ((~~took the drug or alcohol test~~)) is the subject of the report; (b) whether the motor carrier, employer, or consortium has a program that ((~~meets~~)) is subject to the federal requirements under 49 C.F.R. ((~~382~~)) 40; and (c) whether the medical review officer or breath alcohol technician making the report accurately followed the protocols ((~~for testing~~)) established to ((~~certify~~)) verify or confirm the results, or if the driver refused a test, whether the circumstances constitute the refusal of a test under 49 C.F.R. 40. Evidence may be presented to demonstrate that the test results are a false positive. For the purpose of a hearing under this section, a copy of ((~~the~~)) a positive test result with a declaration by the tester or medical review officer or breath alcohol technician stating the accuracy of the laboratory protocols followed to arrive at the test result is prima facie evidence:

(i) Of a ((~~confirmed~~)) verified positive drug test or positive alcohol confirmation test result;

(ii) That the motor carrier, employer, or consortium has a program that is subject to the federal requirements under 49 C.F.R. 40; and

(iii) That the medical review officer or breath alcohol technician making the report accurately followed the protocols for testing established to verify or confirm the results.

After the hearing, the department shall order the disqualification of the person either be rescinded or sustained.

(5) If the person does not request a hearing within the twenty-day time limit, or if the person fails to appear at a hearing, the person has waived the right to a hearing and the department shall sustain the disqualification.

(6) A decision by the department disqualifying a person from driving a commercial motor vehicle is stayed and does not take effect while a formal hearing is pending under this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation and the department receives no further report of a ((~~confirmed~~)) verified positive drug test or positive alcohol confirmation test during the pendency of the hearing and appeal. If the disqualification is sustained after the hearing, the person who is disqualified may file a petition in the superior court of the county of his or her residence to review the final order of disqualification by the department in the manner provided in RCW 46.20.334.

(7) The department of licensing may adopt rules specifying further requirements for requesting and conducting a hearing under this section.

(8) The department of licensing is not civilly liable for damage resulting from disqualifying a driver based on a ((~~confirmed~~)) verified positive drug test or positive alcohol confirmation test result as required by this section or for damage resulting from release of this information that occurs in the normal course of business.

Sec. 5. RCW 46.25.090 and 2004 c 187 s 7 are each amended to read as follows:

(1) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if a report has been received by the department pursuant to RCW 46.25.120, or if the

person has been convicted of a first violation, within this or any other jurisdiction, of:

(a) Driving a motor vehicle under the influence of alcohol or any drug;

(b) Driving a commercial motor vehicle while the alcohol concentration in the person's system is 0.04 or more as determined by any testing methods approved by law in this state or any other state or jurisdiction;

(c) Leaving the scene of an accident involving a motor vehicle driven by the person;

(d) Using a motor vehicle in the commission of a felony;

(e) Refusing to submit to a test to determine the driver's alcohol concentration while driving a motor vehicle;

(f) Driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle;

(g) Causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular homicide and negligent homicide.

If any of the violations set forth in this subsection occurred while transporting hazardous material, the person is disqualified for a period of not less than three years.

(2) A person is disqualified for life if it has been determined that the person has committed or has been convicted of two or more violations of any of the offenses specified in subsection (1) of this section, or any combination of those offenses, arising from two or more separate incidents.

(3) The department may adopt rules, in accordance with federal regulations, establishing guidelines, including conditions, under which a disqualification for life under subsection (2) of this section may be reduced to a period of not less than ten years.

(4) A person is disqualified from driving a commercial motor vehicle for life who uses a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by chapter 69.50 RCW, or possession with intent to manufacture, distribute, or dispense a controlled substance, as defined by chapter 69.50 RCW.

(5) A person is disqualified from driving a commercial motor vehicle for a period of:

(a) Not less than sixty days if:

(i) Convicted of or found to have committed a second serious traffic violation while driving a commercial motor vehicle; or

(ii) Convicted of reckless driving, where there has been a prior serious traffic violation; or

(b) Not less than one hundred twenty days if:

(i) Convicted of or found to have committed a third or subsequent serious traffic violation while driving a commercial motor vehicle; or

(ii) Convicted of reckless driving, where there has been two or more prior serious traffic violations.

For purposes of determining prior serious traffic violations under this subsection, each conviction of or finding that a driver has committed a serious traffic violation while driving a commercial motor vehicle or noncommercial motor vehicle, arising from a separate incident occurring within a three-year period, must be counted.

(6) A person is disqualified from driving a commercial motor vehicle for a period of:

(a) Not less than ninety days nor more than one year if convicted of or found to have committed a first violation of an out-of-service order while driving a commercial vehicle;

(b) Not less than one year nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed two violations of out-of-service orders while driving a commercial motor vehicle in separate incidents;

(c) Not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed three or more violations of out-of-service orders while driving commercial motor vehicles in separate incidents;

(d) Not less than one hundred eighty days nor more than two years if the person is convicted of or is found to have committed a first violation of an out-of-service order while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver. A person is disqualified for a period of not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver.

(7) A person is disqualified from driving a commercial motor vehicle if a report has been received by the department under RCW 46.25.125 that the person has received a ((~~confirmed~~)) verified positive drug test or positive alcohol confirmation test ((~~either~~)) as part of the testing program ((~~required by 49 C.F.R. 382 or~~)) conducted under 49 C.F.R. 40 ((~~or as part of a preemployment drug test~~)). A disqualification under this subsection remains in effect until the person undergoes a drug and alcohol assessment by ((~~an agency certified by the department of social and health services and, if the person is classified as an alcoholic, drug addict, alcohol abuser, or drug abuser, until~~)) a substance abuse professional meeting the requirements of 49 C.F.R. 40, and the person presents evidence of satisfactory participation in or successful completion of a drug or alcohol treatment and/or education program ((~~that has been certified by the department of social and health services under chapter 70.96A RCW~~)) as recommended by the substance abuse professional, and until the person has met the requirements of RCW 46.25.100. The ((~~agency making a drug and alcohol assessment under this section~~)) substance abuse professional shall forward a diagnostic evaluation and treatment recommendation to the department of licensing for use in determining the person's eligibility for driving a commercial motor vehicle. Persons who are disqualified under this subsection more than twice in a five-year period are disqualified for life.

(8)(a) A person is disqualified from driving a commercial motor vehicle for the period of time specified in (b) of this subsection if he or she is convicted of or is found to have committed one of the following six offenses at a railroad-highway grade crossing while operating a commercial motor vehicle in violation of a federal, state, or local law or regulation:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement officer at the crossing;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(b) A person is disqualified from driving a commercial motor vehicle for a period of:

(i) Not less than sixty days if the driver is convicted of or is found to have committed a first violation of a railroad-highway grade crossing violation;

(ii) Not less than one hundred twenty days if the driver is convicted of or is found to have committed a second railroad-highway grade crossing violation in separate incidents within a three-year period;

(iii) Not less than one year if the driver is convicted of or is found to have committed a third or subsequent railroad-highway grade crossing violation in separate incidents within a three-year period.

(9) A person is disqualified from driving a commercial motor vehicle for not more than one year if a report has been received by the department from the federal motor carrier safety administration that the person's driving has been determined to constitute an imminent hazard as defined by 49 C.F.R. 383.5.

(10) Within ten days after suspending, revoking, or canceling a commercial driver's license or disqualifying a driver from operating a commercial motor vehicle, the department shall update its records to reflect that action."

In line 2 of the title, after "operators;" strike the remainder of the title and insert "amending RCW 46.25.010, 46.25.123, 46.25.125, and 46.25.090; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1266 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Wallace and Woods spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1266 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1266, as amended by the Senate and the bill passed the House by the following vote: Yeas - 94, Nays - 1, Absent - 0, Excused - 3.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Bailey, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 94.

Voting nay: Representative Hasegawa - 1.

Excused: Representatives Armstrong, Chandler and Condotta - 3.

SUBSTITUTE HOUSE BILL NO. 1266, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 15, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1347, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature has directed the financial literacy public-private partnership to complete certain tasks to support efforts to increase the level of financial literacy in the common schools. In order to promote a greater understanding by students of the consequences of a dishonored check, the legislature intends to extend by one year the date by which the financial literacy public-private partnership must identify strategies to increase the financial literacy of public school students in Washington.

Sec. 2. RCW 28A.300.455 and 2004 c 247 s 3 are each amended to read as follows:

(1) By September 30, 2004, the financial literacy public-private partnership shall adopt a definition of financial literacy to be used in educational efforts.

(2) By June 30, ((~~2005~~)) 2006, the financial literacy public-private partnership shall identify strategies to increase the financial literacy of public school students in our state. To the extent funds are available, strategies to be considered by the partnership shall include, but not be limited to:

(a) Identifying and making available to school districts:

(i) Important financial literacy skills and knowledge;

(ii) Ways in which teachers at different grade levels may integrate financial literacy in mathematics, social studies, and other course content areas;

(iii) Instructional materials and programs, including schoolwide programs, that include the important financial literacy skills and knowledge;

(iv) Assessments and other outcome measures that schools and communities may use to determine whether students are financially literate; and

(v) Other strategies for expanding and increasing the quality of financial literacy instruction in public schools, including professional development for teachers;

(b) Developing a structure and set of operating principles for the financial literacy public-private partnership to assist interested school districts in improving the financial literacy of their students by providing such things as financial literacy instructional materials and professional development; and

(c) Providing a report to the governor, the house and senate financial institutions and education committees of the legislature, the superintendent of public instruction, the state board of education, and education stakeholder groups, on the results of work of the financial literacy public-private partnership. A final report shall be submitted to the same parties by June 30, 2007.

NEW SECTION. **Sec. 3.** (1) If a check as defined in RCW 62A.3-104 is dishonored by nonacceptance or nonpayment and the check is assigned or written to a collection agency as defined in RCW 19.16.100, the collection agency may collect a reasonable handling fee for each instrument. If the collection agency or its agent provides a notice of dishonor in the form provided in section 4 of this act to the drawer and the check amount plus the reasonable handling fee are not paid within thirty-three days after providing the notice of dishonor, then, unless the instrument otherwise provides, the drawer of the instrument is liable for payment of interest at the rate of twelve percent per annum from the date of dishonor, and a cost of collection of forty dollars or the face amount of the check, whichever is less, payable to the collection agency. In addition, in the event of court action on the check and after notice and the expiration of the thirty-three days, the court shall award reasonable attorneys' fees, and three times the face amount of the check or three hundred dollars, whichever is less, as part of the damages payable to the collection agency. This section does not apply to an instrument that is dishonored by reason of a justifiable stop payment order.

(2) Subsequent to the commencement of an action on the check under subsection (1) of this section but prior to the hearing, the defendant may tender to the plaintiff as satisfaction of the claim, an amount of money equal to the face amount of the check, a reasonable handling fee, accrued interest, collection costs equal to the face amount of the check not to exceed forty dollars, and the incurred court costs, service costs, and statutory attorneys' fees.

(3) Nothing in this section precludes the right to commence action in a court under chapter 12.40 RCW for small claims.

NEW SECTION. **Sec. 4.** (1) If a check is assigned or written to a collection agency as defined in RCW 19.16.100 and the collection agency or its agent provides a notice of dishonor, the notice of dishonor may be sent by mail to the drawer at the drawer's last known address. The collection agency may, as an alternative to providing a notice in the form described in RCW 62A.3-520, provide a notice in substantially the following form:

NOTICE OF DISHONOR OF CHECK

A check drawn by you and made payable by you to . . . . . in the amount of . . . . . has not been accepted for payment by . . . . . ., which is the drawee bank designated on your check. This check is dated . . . . ., and it is numbered, No. . . . . ..

You are CAUTIONED that unless you pay the amount of this check and a handling fee of . . . . . within thirty-three days after the date this letter is postmarked or personally delivered, you may very well have to pay the following additional amounts:

(a) Costs of collecting the amount of the check in the lesser of the check amount or forty dollars, plus, in the event of legal action, court costs and attorneys' fees, which will be set by the court;

(b) Interest on the amount of the check which shall accrue at the rate of twelve percent per annum from the date of dishonor; and

(c) Three hundred dollars or three times the face amount of the check, whichever is less, by award of the court.

You are also CAUTIONED that law enforcement agencies may be provided with a copy of this notice of dishonor and the check drawn by you for the possibility of proceeding with criminal charges if you do not pay the amount of this check within thirty-three days after the date this letter is postmarked.

You are advised to make your payment of $. . . . . to . . . . . at the following address: . . . . . .

(2) The cautionary statement regarding law enforcement in subsection (1) of this section need not be included in a notice of dishonor sent by a collection agency. However, if included and whether or not the collection agency regularly refers dishonored checks to law enforcement, the cautionary statement in subsection (1) of this section shall not be construed as a threat to take any action not intended to be taken or that cannot legally be taken; nor shall it be construed to be harassing, oppressive, or abusive conduct; nor shall it be construed to be a false, deceptive, or misleading representation; nor shall it be construed to be unfair or unconscionable; nor shall it otherwise be construed to violate any law.

(3) In addition to sending a notice of dishonor to the drawer of the check under this section, the person sending notice shall execute an affidavit certifying service of the notice by mail. The affidavit of service by mail must be substantially in the following form:

AFFIDAVIT OF SERVICE BY MAIL

I, ..., hereby certify that on the . . . . . day of . . . . . ., 20. . ., a copy of the foregoing Notice was served on . . . . . by mailing via the United States Postal Service, postage prepaid, at . . . . . ., Washington.

Dated: . . . . . .

(Signature)

(4) The person enforcing a check under this section shall file the affidavit and check, or a true copy thereof, with the clerk of the court in which an action on the check is commenced as permitted by court rule or practice.

NEW SECTION. **Sec. 5.** No interest, collection costs, and attorneys' fees, except handling fees, are recoverable on any dishonored check under the provisions of section 3 of this act where a collection agency or its agent, employee, or assign has demanded:

(1) Interest or collection costs in excess of that provided by section 3 of this act; or

(2) Interest or collection costs prior to the expiration of thirty-three days after the serving or mailing of the notice of dishonor, as provided by section 3 or 4 of this act; or

(3) Attorneys' fees other than statutory attorneys' fees without having the fees set by the court, or any attorneys' fees prior to thirty-three days after the serving or mailing of the notice of dishonor, as provided by section 3 or 4 of this act.

NEW SECTION. **Sec. 6.** Sections 3 through 5 of this act are each added to chapter 62A.3 RCW under the subchapter heading "DISHONOR.""

On page 1, line 1 of the title, after "checks;" strike the remainder of the title and insert "amending RCW 28A.300.455; adding new sections to chapter 62A.3 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1347 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Lantz and Priest spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1347 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1347, as amended by the Senate and the bill passed the House by the following vote: Yeas - 95, Nays - 1, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 95.

Voting nay: Representative Dunn - 1.

Excused: Representatives Chandler and Condotta - 2.

SUBSTITUTE HOUSE BILL NO. 1347, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 13, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1463, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.210.080 and 1990 c 33 s 192 are each amended to read as follows:

(1) The attendance of every child at every public and private school in the state and licensed day care center shall be conditioned upon the presentation before or on each child's first day of attendance at a particular school or center, of proof of either ((~~(1)~~)) (a) full immunization, ((~~(2)~~)) (b) the initiation of and compliance with a schedule of immunization, as required by rules of the state board of health, or ((~~(3)~~)) (c) a certificate of exemption as provided for in RCW 28A.210.090. The attendance at the school or the day care center during any subsequent school year of a child who has initiated a schedule of immunization shall be conditioned upon the presentation of proof of compliance with the schedule on the child's first day of attendance during the subsequent school year. Once proof of full immunization or proof of completion of an approved schedule has been presented, no further proof shall be required as a condition to attendance at the particular school or center.

(2)(a) Beginning with sixth grade entry, every public and private school in the state shall provide parents and guardians with information about meningococcal disease and its vaccine at the beginning of every school year. The information about meningococcal disease shall include:

(i) Its causes and symptoms, how meningococcal disease is spread, and the places where parents and guardians may obtain additional information and vaccinations for their children; and

(ii) Current recommendations from the United States centers for disease control and prevention regarding the receipt of vaccines for meningococcal disease and where the vaccination can be received.

(b) This subsection shall not be construed to require the department of health or the school to provide meningococcal vaccination to students.

(c) The department of health shall prepare the informational materials and shall consult with the office of superintendent of public instruction.

(d) This subsection does not create a private right of action.

NEW SECTION. **Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005."

On page 1, line 1 of the title, after "immunization;" strike the remainder of the title and insert "amending RCW 28A.210.080; providing an effective date; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1463 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL

AS SENATE AMENDED

Representatives Green and Bailey spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1463 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1463, as amended by the Senate and the bill passed the House by the following vote: Yeas - 96, Nays - 0, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Excused: Representatives Chandler and Condotta - 2.

SUBSTITUTE HOUSE BILL NO. 1463, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 8, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1495, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** It is the intent of the legislature to promote the full success of the centennial accord, which was signed by state and tribal government leaders in 1989. As those leaders declared in the subsequent millennial accord in 1999, this will require "educating the citizens of our state, particularly the youth who are our future leaders, about tribal history, culture, treaty rights, contemporary tribal and state government institutions and relations and the contribution of Indian nations to the state of Washington." The legislature recognizes that this goal has yet to be achieved in most of our state's schools and districts. As a result, Indian students may not find the school curriculum, especially Washington state history curriculum, relevant to their lives or experiences. In addition, many students may remain uninformed about the experiences, contributions, and perspectives of their tribal neighbors, fellow citizens, and classmates. The legislature further finds that the lack of accurate and complete curricula may contribute to the persistent achievement gap between Indian and other students. The legislature finds there is a need to establish collaborative government-to-government relationships between elected school boards and tribal councils to create local and/or regional curricula about tribal history and culture, and to promote dialogue and cultural exchanges that can help tribal leaders and school leaders implement strategies to close the achievement gap.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.345 RCW to read as follows:

(1) Beginning in 2006, and at least once annually through 2010, the Washington state school directors' association is encouraged to convene regional meetings and invite the tribal councils from the region for the purpose of establishing government-to-government relationships and dialogue between tribal councils and school district boards of directors. Participants in these meetings should discuss issues of mutual concern, and should work to:

(a) Identify the extent and nature of the achievement gap and strategies necessary to close it;

(b) Increase mutual awareness and understanding of the importance of accurate, high-quality curriculum materials about the history, culture, and government of local tribes; and

(c) Encourage school boards to identify and adopt curriculum that includes tribal experiences and perspectives, so that Indian students are more engaged and learn more successfully, and so that all students learn about the history, culture, government, and experiences of their Indian peers and neighbors.

(2) By December 1, 2008, and every two years thereafter through 2012, the school directors' association shall report to the education committees of the legislature regarding the progress made in the development of effective government-to-government relations, the narrowing of the achievement gap, and the identification and adoption of curriculum regarding tribal history, culture, and government. The report shall include information about any obstacles encountered, and any strategies under development to overcome them.

Sec. 3. RCW 28A.230.090 and 2004 c 19 s 103 are each amended to read as follows:

(1) The state board of education shall establish high school graduation requirements or equivalencies for students.

(a) Any course in Washington state history and government used to fulfill high school graduation requirements ((~~is encouraged to include~~)) shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.

(b) The certificate of academic achievement requirements under RCW 28A.655.061 or the certificate of individual achievement requirements under RCW 28A.155.045 are required for graduation from a public high school but are not the only requirements for graduation.

(c) Any decision on whether a student has met the state board's high school graduation requirements for a high school and beyond plan shall remain at the local level.

(2) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation

requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(3) Pursuant to any requirement for instruction in languages other than English established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.

(4) If requested by the student and his or her family, a student who has completed high school courses before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit.

(6) At the college or university level, five quarter or three semester hours equals one high school credit.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.320 RCW to read as follows:

(1) Each school district board of directors is encouraged to incorporate curricula about the history, culture, and government of the nearest federally recognized Indian tribe or tribes, so that students learn about the unique heritage and experience of their closest neighbors. School districts near Washington's borders are encouraged to include federally recognized Indian tribes whose traditional lands and territories included parts of Washington, but who now reside in Oregon, Idaho, and British Columbia. School districts and tribes are encouraged to work together to develop such curricula.

(2) As they conduct regularly scheduled reviews and revisions of their social studies and history curricula, school districts are encouraged to collaborate with any federally recognized Indian tribe within their district, and with neighboring Indian tribes, to incorporate expanded and improved curricular materials about Indian tribes, and to create programs of classroom and community cultural exchanges.

(3) School districts are encouraged to collaborate with the office of the superintendent of public instruction on curricular areas regarding tribal government and history that are statewide in nature, such as the concept of tribal sovereignty and the history of federal policy towards federally recognized Indian tribes. The program of Indian education within the office of the superintendent of public instruction is encouraged to help local school districts identify federally recognized Indian tribes whose reservations are in whole or in part within the boundaries of the district and/or those that are nearest to the school district."

On page 1, line 2 of the title, after "schools;" strike the remainder of the title and insert "amending RCW 28A.230.090; adding a new section to chapter 28A.345 RCW; adding a new section to chapter 28A.320 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1495 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Quall and Talcott spoke in favor the passage of the bill.

1495COLLOQUY

Representative Talcott: "Before European settlers came to Washington State, there were many more tribes than the 29 currently recognized by the Federal government. Is it the prime sponsor's intent that the enactment of this bill will prevent the inclusion of school curriculum about the history and culture of non-federally recognized tribes?"

Representative McCoy: "No, it is not our intent to exclude the treaty tribes.

As you correctly point out, there were hundreds of tribes before white settlers came here. Every significant river and body of water shared its name with the tribe that lived on it. The 1855 treaties joined many tribes on a signle reservation. For instance my tribe, the Tulalip, is composed of three primary and eight lesser tribes. The Colville reservation includes 14 tribes. Each reservation or federally recognized tribe includes the descendants of many tribes.

At the same time, there were also Indian people who, at the time the treaties were signed, chose not to move to a reservation. For instance, some Duwamish people chose to stay in the Seattle area; some chose to come live on the Tulalip reservation; and others chose to live on the Suquamish reservation.

So it is virtually impossible to teach about the history and culture of federally recognized tribes without teaching about all Indians, including the treaty tribes. And it would be totally disrespectful of Chief Seattle not to include the Duwamish people in what we teach to the children of this state."

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1495 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1495, as amended by the Senate and the bill passed the House by the following vote: Yeas - 79, Nays - 17, Absent - 0, Excused - 2.

Voting yea: Representatives Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Campbell, Chase, Clements, Clibborn, Cody, Conway, Cox, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Talcott, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 79.

Voting nay: Representatives Ahern, Buck, Buri, Crouse, Curtis, Dunn, Hinkle, Holmquist, Kretz, Kristiansen, McCune, McDonald, Orcutt, Pearson, Schindler, Sump and Tom - 17.

Excused: Representatives Chandler and Condotta - 2.

SUBSTITUTE HOUSE BILL NO. 1495, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 12, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1541, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS AND INTENT. (1) The legislature finds that the public-private initiatives act created under chapter 47.46 RCW has not met the needs and expectations of the public or private sectors for the development of transportation projects. The legislature intends to phase out chapter 47.46 RCW coincident with the completion of the Tacoma Narrows Bridge - SR 16 public-private partnership. From the effective date of this act, this chapter will provide a more desirable and effective approach to developing transportation projects in partnership with the private sector by applying lessons learned from other states and from this state's ten-year experience with chapter 47.46 RCW.

(2) It is the legislature's intent to achieve the following goals through the creation of this new approach to public-private partnerships:

(a) To provide a well-defined mechanism to facilitate the collaboration between public and private entities in transportation;

(b) To bring innovative thinking from the private sector and other states to bear on public projects within the state;

(c) To provide greater flexibility in achieving the transportation projects; and

(d) To allow for creative cost and risk sharing between the public and private partners.

(3) The legislature intends that the powers granted in this chapter to the commission or department are in addition to any powers granted under chapter 47.56 RCW.

(4) It is further the intent of the legislature that the commission shall be responsible for receiving, reviewing, and approving proposals with technical support of the department; rule making; and for oversight of contract execution. The department shall be responsible for evaluating proposals and negotiating contracts.

NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this section apply throughout this chapter.

(1) "Authority" means the transportation commission.

(2) "Commission" means the transportation commission.

(3) "Department" means the department of transportation.

(4) "Eligible project" means any project eligible for development under section 5 of this act.

(5) "Eligible public works project" means only a project that meets the criteria of either section 6 (3) or (4) of this act.

(6) "Private sector partner" and "private partner" means a person, entity, or organization that is not the federal government, a state, or a political subdivision of a state.

(7) "Public funds" means all moneys derived from taxes, fees, charges, tolls, etc.

(8) "Public sector partner" and "public partner" means any federal or state unit of government, bistate transportation organization, or any other political subdivision of any state.

(9) "Transportation innovative partnership program" or "program" means the program as outlined in section 4 of this act.

(10) "Transportation project" means a project, whether capital or operating, where the state's primary purpose for the project is to preserve or facilitate the safe transport of people or goods via any mode of travel. However, this does not include projects that are primarily for recreational purposes, such as parks, hiking trails, off-road vehicle trails, etc.

(11) "Unit of government" means any department or agency of the federal government, any state or agency, office, or department of a state, any city, county, district, commission, authority, entity, port, or other public corporation organized and existing under statutory law or under a voter-approved charter or initiative, and any intergovernmental entity created under chapter 39.34 RCW or this chapter.

PART I
POWERS AND DUTIES OF TRANSPORTATION COMMISSION

NEW SECTION. **Sec. 3.** TRANSPORTATION COMMISSION POWERS AND RESPONSIBILITIES. In addition to the powers it now possesses, the commission shall:

(1) Approve or review contracts or agreements authorized in this chapter;

(2) Adopt rules to carry out this chapter and govern the program, which at a minimum must address the following issues:

(a) The types of projects allowed; however, all allowed projects must be included in the Washington transportation plan or identified by the authority as being a priority need for the state;

(b) The types of contracts allowed, with consideration given to the best practices available;

(c) The composition of the team responsible for the evaluation of proposals to include:

(i) Washington state department of transportation staff;

(ii) An independent representative of a consulting or contracting field with no interests in the project that is prohibited from becoming a project manager for the project and bidding on any part of the project;

(iii) An observer from the state auditor's office or the joint legislative audit and review committee;

(iv) A person appointed by the commission, if the secretary of transportation is a cabinet member, or appointed by the governor if the secretary of transportation is not a cabinet member; and

(v) A financial expert;

(d) Minimum standards and criteria required of all proposals;

(e) Procedures for the proper solicitation, acceptance, review, and evaluation of projects;

(f) Criteria to be considered in the evaluation and selection of proposals that includes:

(i) Comparison with the department's internal ability to complete the project that documents the advantages of completing the project as a partnership versus solely as a public venture; and

(ii) Factors such as, but not limited to: priority, cost, risk sharing, scheduling, and management conditions;

(g) The protection of confidential proprietary information while still meeting the need for public disclosure that is consistent with section 19 of this act;

(h) Protection for local contractors to participate in subcontracting opportunities;

(i) Specifying that maintenance issues must be resolved in a manner consistent with the personnel system reform act, chapter 41.80 RCW;

(j) Specifying that provisions regarding patrolling and law enforcement on a public facility are subject to approval by the Washington state patrol;

(3) Adopt guidelines to address security and performance issues.

All rules and guidelines established under this section must be submitted to the chairs and ranking members of both transportation committees in October 2005 for review and then be submitted to the full legislature in the 2006 session.

PART II
TRANSPORTATION INNOVATIVE PARTNERSHIPS PROGRAM

NEW SECTION. **Sec. 4.** PURPOSE OF TRANSPORTATION INNOVATIVE PARTNERSHIPS. The Transportation Innovative Partnerships Act is created for the planning, acquisition, design, financing, management, development, construction, reconstruction, replacement, improvement, maintenance, preservation, repair, and operation of transportation projects. The goals of this chapter are to:

(1) Reduce the cost of transportation project delivery;

(2) Recover transportation investment costs;

(3) Develop an expedited project delivery process;

(4) Encourage business investment in public infrastructure;

(5) Use any fund source outside the state treasury, where financially advantageous and in the public interest;

(6) Maximize innovation;

(7) Develop partnerships between and among private entities and the public sector for the advancement of public purposes on mutually beneficial terms;

(8) Create synergies between and among public sector entities to develop projects that serve both transportation and other important public purposes; and

(9) Access specialized construction management and project management services and techniques available in the private sector.

NEW SECTION. **Sec. 5.** ELIGIBLE PROJECTS. Projects eligible for development under this chapter include:

(1) Transportation projects, whether capital or operating, where the state's primary purpose for the project is to facilitate the safe transport of people or goods via any mode of travel. However, this does not include projects that are primarily for recreational purposes, such as parks, hiking trails, off-road vehicle trails, etc.; and

(2) Facilities, structures, operations, properties, vehicles, vessels, or the like that are developed concurrently with an eligible transportation project and that are capable of (a) providing revenues to support financing of an eligible transportation project, or (b) that are public projects that advance public purposes unrelated to transportation.

NEW SECTION. **Sec. 6.** ELIGIBLE TYPES OF FINANCING. (1) Subject to the limitations in this section, the department may, in connection with the evaluation of eligible projects, consider any financing mechanisms identified under subsections (3) through (5) of this section or any other lawful source, either integrated as part of a project proposal or as a separate, stand-alone proposal to finance a project. Financing may be considered for all or part of a proposed project. A project may be financed in whole or in part with:

(a) The proceeds of grant anticipation revenue bonds authorized by 23 U.S.C. Sec. 122 and applicable state law. Legislative authorization and appropriation is required in order to use this source of financing;

(b) Grants, loans, loan guarantees, lines of credit, revolving lines of credit, or other financing arrangements available under the Transportation Infrastructure Finance and Innovation Act under 23 U.S.C. Sec. 181 et seq., or any other applicable federal law;

(c) Infrastructure loans or assistance from the state infrastructure bank established by RCW 82.44.195;

(d) Federal, state, or local revenues, subject to appropriation by the applicable legislative authority;

(e) User fees, tolls, fares, lease proceeds, rents, gross or net receipts from sales, proceeds from the sale of development rights, franchise fees, or any other lawful form of consideration.

(2) As security for the payment of financing described in this section, the revenues from the project may be pledged, but no such pledge of revenues constitutes in any manner or to any extent a general obligation of the state. Any financing described in this section may be structured on a senior, parity, or subordinate basis to any other financing.

(3) For any transportation project developed under this chapter that is owned, leased, used, or operated by the state, as a public facility, if indebtedness is issued, it must be issued by the state treasurer for the transportation project.

(4) For other public projects defined in section 5(2) of this act that are developed in conjunction with a transportation project, financing necessary to develop, construct, or operate the public project must be approved by the state finance committee or by the governing board of a public benefit corporation as provided in the federal Internal Revenue Code section 63-20;

(5) For projects that are developed in conjunction with a transportation project but are not themselves a public facility or public project, any lawful means of financing may be used.

NEW SECTION. **Sec. 7.** USE OF FEDERAL FUNDS AND SIMILAR SOURCES OF REVENUE. The department may accept from the United States or any of its agencies such funds as are available to this state or to any other unit of government for carrying out the purposes of this chapter, whether the funds are made available

by grant, loan, or other financing arrangement. The department may enter into such agreements and other arrangements with the United States or any of its agencies as may be necessary, proper, and convenient for carrying out the purposes of this chapter, subject to section 8 of this act.

NEW SECTION. **Sec. 8.** OTHER SOURCES OF VALUABLE CONSIDERATION AUTHORIZED. The department may accept from any source any grant, donation, gift, or other form of conveyance of land, money, other real or personal property, or other valuable thing made to the state of Washington, the department, or a local government for carrying out the purposes of this chapter.

Any eligible project may be financed in whole or in part by contribution of any funds or property made by any private entity or public sector partner that is a party to any agreement entered into under this chapter.

NEW SECTION. **Sec. 9.** REVIEW, EVALUATION, AND SELECTION OF POTENTIAL PROJECTS. (1) Subject to subsection (2) of this section, the commission may:

(a) Solicit concepts or proposals for eligible projects from private entities and units of government;

(b) On or after January 1, 2007, accept unsolicited concepts or proposals for eligible projects from private entities and units of government, subject to section 17 of this act;

(c) Direct the department to evaluate projects for inclusion in the transportation innovative partnerships program that are already programmed or identified for traditional development by the state;

(d) Direct the department to evaluate the concepts or proposals received under this section; and

(e) Select potential projects based on the concepts or proposals. The evaluation under this subsection must include consultation with any appropriate unit of government.

(2) Before undertaking any of the activities contained in subsection (1) of this section, the commission must have:

(a) Completed the tolling feasibility study; and

(b) Adopted rules specifying procedures for the proper solicitation, acceptance, review, and evaluation of projects, which procedures must include:

(i) A comparison with the department's internal ability to complete the project that documents the advantages of completing the project as a partnership versus solely as a public venture; and

(ii) Factors such as priority, cost, risk sharing, scheduling, and management conditions.

NEW SECTION. **Sec. 10.** ADMINISTRATIVE FEE AUTHORIZED. The department may charge a reasonable administrative fee for the evaluation of an unsolicited project proposal. The amount of the fee will be established in rules of the commission.

NEW SECTION. **Sec. 11.** AUTHORIZATION TO SPEND FUNDS FOR EVALUATION AND NEGOTIATION OF PROPOSALS. The department may spend, out of any funds identified for the purpose, such moneys as may be necessary for the evaluation of concepts or proposals for eligible projects and for negotiating agreements for eligible projects authorized by this chapter. The department may employ engineers, consultants, or other experts the department determines are needed for the purposes of doing the evaluation and negotiation. Expenses incurred by the department under this section before the issuance of transportation project bonds or other financing must be paid by the department and charged to the appropriate project. The department shall keep records and accounts showing each amount so charged.

Unless otherwise provided in the omnibus transportation budget the funds spent by the department under this section in connection with the project must be repaid from the proceeds of the bonds or other financing upon the sale of transportation project bonds or upon obtaining other financing for an eligible project, as allowed by law or contract.

NEW SECTION. **Sec. 12.** CONSULTATION WITH EXPERTS AUTHORIZED. The commission and department may consult with legal, financial, and other experts inside and outside the public sector in the evaluation, negotiation, and development of projects under this chapter, consistent with RCW 43.10.040 where applicable.

NEW SECTION. **Sec. 13.** ENVIRONMENTAL, ENGINEERING, AND TECHNICAL STUDIES CONTRACTED. Notwithstanding any other provision of law, and in the absence of any direct federal funding or direction, the department may contract with a private developer of a selected project proposal to conduct environmental impact studies and engineering and technical studies.

NEW SECTION. **Sec. 14.** TERMS OF PARTNERSHIP AGREEMENTS. (1) The following provisions must be included in any agreement to which the state is a party:

(a) For any project that proposes terms for stand-alone maintenance or asset management services for a public facility, those services must be provided in a manner consistent with any collective bargaining agreements, the personnel system reform act (chapter 41.80 RCW), and civil service laws that are in effect for the public facility;

(b) Transportation projects that are selected for development under this chapter must be identified in the Washington transportation plan or be identified by the authority as being a priority need for the state;

(c) If there is a tolling component to the project, then it must be specified that tolling technology used in the project must be consistent with tolling technology standards adopted by the department for transportation-related projects;

(d) Provisions for bonding, financial guarantees, deposits, or the posting of other security to secure the payment of laborers, subcontractors, and suppliers who perform work or provide materials as part of the project;

(e) All projects must be financed in a manner consistent with section 6 of this act. This chapter is null and void if this subsection or section 6 of this act fails to become law or is held invalid by a court of final jurisdiction.

(2) Agreements between the state and private sector partners entered into under this section must specifically include the following contractual elements:

(a) The point in the project at which public and private sector partners will enter the project and which partners will assume responsibility for specific project elements;

(b) How the partners will share management of the risks of the project;

(c) How the partners will share the costs of development of the project;

(d) How the partners will allocate financial responsibility for cost overruns;

(e) The penalties for nonperformance;

(f) The incentives for performance;

(g) The accounting and auditing standards to be used to evaluate work on the project;

(h) For any project that reverts to public ownership, the responsibility for reconstruction or renovations that are required in order for a facility to meet all applicable government standards upon reversion of the facility to the state; and

(i) Provisions for patrolling and law enforcement on transportation projects that are public facilities.

NEW SECTION. **Sec. 15.** PUBLIC INVOLVEMENT AND PARTICIPATION PLAN. (1) Before final approval, agreements entered into under this chapter must include a process that provides for public involvement and participation with respect to the development of the projects. This plan must be submitted along with the proposed agreement, and both must be approved under section 16 of this act before the state may enter a binding agreement.

(2) All workshops, forums, open houses, meetings, public hearings, or similar public gatherings must be administered and attended by representatives of the state and any other public entities that are party to an agreement authorized by this chapter.

NEW SECTION. **Sec. 16.** PROCESS FOR FINAL APPROVAL AND EXECUTION OF CONTRACTS. (1) Before approving an agreement under subsection (2) of this section, the commission, with the technical assistance of the department, must:

(a) Prepare a financial analysis that fully discloses all project costs, direct and indirect, including costs of any financing;

(b) Publish notice and make available the contents of the agreement, with the exception of patent information, at least twenty days before the public hearing required in (c) of this subsection; and

(c) Hold a public hearing on the proposed agreement, with proper notice provided at least twenty days before the hearing. The public hearing must be held within the boundaries of the county seat of the county containing the project.

(2) The commission must allow at least twenty days from the public hearing on the proposed agreement required under subsection (1)(c) of this section before approving and executing any agreements authorized under this chapter.

NEW SECTION. **Sec. 17.** UNSOLICITED PROJECT PROPOSALS. Before accepting any unsolicited project proposals, the commission must adopt rules to facilitate the acceptance, review, evaluation, and selection of unsolicited project proposals. These rules must include the following:

(1) Provisions that specify unsolicited proposals must meet predetermined criteria;

(2) Provisions governing procedures for the cessation of negotiations and consideration;

(3) Provisions outlining that unsolicited proposals are subject to a two-step process that begins with concept proposals and would only advance to the second step, which are fully detailed proposals, if the commission so directed;

(4) Provisions that require concept proposals to include at least the following information: Proposers' qualifications and experience; description of the proposed project and impact; proposed project financing; and known public benefits and opposition; and

(5) Provisions that specify the process to be followed if the commission is interested in the concept proposal, which must include provisions:

(a) Requiring that information regarding the potential project would be published for a period of not less than thirty days, during which time entities could express interest in submitting a proposal;

(b) Specifying that if letters of interest were received during the thirty days, then an additional sixty days for submission of the fully detailed proposal would be allowed; and

(c) Procedures for what will happen if there are insufficient proposals submitted or if there are no letters of interest submitted in the appropriate time frame.

The commission may adopt other rules as necessary to avoid conflicts with existing laws, statutes, or contractual obligations of the state.

The commission may not accept or consider any unsolicited proposals before January 1, 2007.

NEW SECTION. **Sec. 18.** ADVISORY COMMITTEES REQUIRED FOR LARGE PROJECTS. For projects with costs, including financing costs, of three hundred million dollars or greater, advisory committees are required.

(1) The commission must establish an advisory committee to advise with respect to eligible projects. An advisory committee must consist of not fewer than five and not more than nine members, as determined by the public partners. Members must be appointed by the commission, or for projects with joint public sector participation, in a manner agreed to by the commission and any participating unit of government. In making appointments to the committee, the commission shall consider persons or organizations offering a diversity of viewpoints on the project.

(2) An advisory committee shall review concepts or proposals for eligible projects and submit comments to the public sector partners.

(3) An advisory committee shall meet as necessary at times and places fixed by the department, but not less than twice per year. The state shall provide personnel services to assist the advisory committee within the limits of available funds. An advisory committee may adopt rules to govern its proceedings and may select officers.

(4) An advisory committee must be dissolved once the project has been fully constructed and debt issued to pay for the project has been fully retired.

NEW SECTION. **Sec. 19.** CONFIDENTIAL INFORMATION. A proposer shall identify those portions of a proposal that the proposer considers to be confidential, proprietary information, or trade secrets and provide any justification as to why these materials, upon request, should not be disclosed by the authority. Patent information will be covered until the patent expires. Other information such as originality of design or records of negotiation may only be protected under this section until an agreement is reached. Disclosure must occur before final agreement and execution of the contract. Projects under federal jurisdiction or using federal funds must conform to federal regulations under the Freedom of Information Act.

NEW SECTION. **Sec. 20.** APPLICATION OF PREVAILING WAGE LAW. If public funds are used to pay any costs of construction of a public facility that is part of an eligible project, chapter 39.12 RCW applies to the entire eligible public works project.

NEW SECTION. **Sec. 21.** JOINT AGREEMENTS WITH OTHER GOVERNMENTAL ENTITIES. The state may, either separately or in combination with any other public sector partner, enter into working agreements, coordination agreements, or similar implementation agreements, including the formation of bistate transportation organizations, to carry out the joint implementation of

a transportation project selected under this chapter. The state may enter into agreements with other units of government or Canadian provinces for transborder transportation projects.

NEW SECTION. **Sec. 22.** EMINENT DOMAIN. The state may exercise the power of eminent domain to acquire property, rights of way, or other rights in property for projects that are necessary to implement an eligible project developed under this chapter, regardless of whether the property will be owned in fee simple by the state.

PART III
GENERAL PROVISIONS

NEW SECTION. **Sec. 23.** CREATION OF TRANSPORTATION INNOVATIVE PARTNERSHIP ACCOUNT. (1) The transportation innovative partnership account is established in the custody of the state treasurer separate and distinct from the state general fund. Interest earned by the transportation innovative partnership account must be credited to the account. The account is subject to allotment procedures under chapter 43.88 RCW.

(2) The following moneys must be deposited into the transportation innovative partnership account:

(a) Proceeds from bonds or other financing instruments issued under section 25 of this act;

(b) Revenues received from any transportation project developed under this chapter or developed under the general powers granted to the department; and

(c) Any other moneys that are by donation, grant, contract, law, or other means transferred, allocated, or appropriated to the account.

(3) Moneys in the transportation innovative partnership account may only be expended upon evidence of approval by the Washington state legislature, either upon appropriation of supporting state funds or by other statutory direction.

(4) The state treasurer shall serve as a fiduciary for the purpose of carrying out this chapter and implementing all or portions of any transportation project financed under this chapter.

(5) Moneys in the transportation innovative partnership account that were derived from revenue subject to Article II, section 40 (Amendment 18) of the Washington state Constitution, may be used only for purposes authorized by that provision of the state Constitution.

(6) The state treasurer shall establish separate subaccounts within the transportation innovative partnership account for each transportation project that is initiated under this chapter or under the general powers granted to the department. Except as provided in subsection (5) of this section, the state may pledge moneys in the transportation innovative partnership account to secure revenue bonds or any other debt obligations relating to the project for which the account is established.

NEW SECTION. **Sec. 24.** USE OF TRANSPORTATION INNOVATIVE PARTNERSHIP ACCOUNT. (1) The state may use moneys in the transportation innovative partnership subaccount to ensure the repayment of loan guarantees or extensions of credit made to or on behalf of private entities engaged in the planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, preservation, management, repair, or operation of any eligible project that is related to a subaccount established under this chapter.

(2) The lien of a pledge made under this section is subordinate to the lien of a pledge securing bonds payable from moneys in the motor vehicle fund established in RCW 46.68.070, or the transportation innovative partnership account established in section 23 of this act.

NEW SECTION. **Sec. 25.** AUTHORITY TO ISSUE REVENUE BONDS AND OTHER OBLIGATIONS. (1) In addition to any authority the commission or department has to issue and sell bonds and other similar obligations, this section establishes continuing authority for the issuance and sale of bonds and other similar obligations in a manner consistent with this section. To finance a project in whole or in part, the commission may request that the state treasurer issue revenue bonds on behalf of the public sector partner. The bonds must be secured by a pledge of, and a lien on, and be payable only from moneys in the transportation innovative partnership account established in section 23 of this act, and any other revenues specifically pledged to repayment of the bonds. Such a pledge by the public partner creates a lien that is valid and binding from the time the pledge is made. Revenue bonds issued under this section are not general obligations of the state or local government and are not secured by or payable from any funds or assets of the state other than the moneys and revenues specifically pledged to the repayment of such revenue bonds.

(2) Moneys received from the issuance of revenue bonds or other debt obligations, including any investment earnings thereon, may be spent:

(a) For the purpose of financing the costs of the project for which the bonds are issued;

(b) To pay the costs and other administrative expenses of the bonds;

(c) To pay the costs of credit enhancement or to fund any reserves determined to be necessary or advantageous in connection with the revenue bonds; and

(d) To reimburse the public sector partners for any costs related to carrying out the projects authorized under this chapter.

PART IV
ALTERNATIVE CONTRACTING AND INNOVATIVE PROJECT MANAGEMENT

NEW SECTION. **Sec. 26.** STUDY OF ALTERNATIVE CONTRACTING AND PROJECT MANAGEMENT AUTHORITIES. The department shall conduct a study of:

(1) The contracting powers and project management authorities it currently possesses; those same powers and authorities authorized under this chapter; and those powers and authorities employed by other states or the private sector;

(2) Methods of encouraging competition for the development of transportation projects; and

(3) Any additional procedures that may be necessary or desirable for negotiating contracts in situations of a single qualified bidder, in either solicited or unsolicited proposals.

The department must submit its report, along with any recommended legislative changes, to the commission by November 1, 2005, and to the governor and the legislature for consideration in the 2006 legislative session.

PART V
CONSTRUCTION

NEW SECTION. **Sec. 27.** CONFORMITY WITH FEDERAL LAWS. Notwithstanding any provision of this chapter, applicable

federal laws, rules, and regulations govern in any situation that involves federal funds if the federal laws, rules, or regulations:

(1) Conflict with any provision of this chapter;

(2) Require procedures that are additional to or different from those provided in this chapter; or

(3) Require contract provisions not authorized in this chapter. If no federal funds are provided, state laws, rates, and rules will govern.

NEW SECTION. **Sec. 28.** Captions used in this chapter are not part of the law.

NEW SECTION. **Sec. 29.** Sections 1 through 28 of this act constitute a new chapter in Title 47 RCW.

NEW SECTION. **Sec. 30.** A new section is added to chapter 47.04 RCW to read as follows:

The department of transportation may impose and collect latecomer fees on behalf of another entity for infrastructure improvement projects initially funded partially or entirely by private sources. However, there must be an agreement in place between the department of transportation and the entity, before the imposition and collection of any such fees, that specifies (1) the collection process, (2) the maximum amount that may be collected, and (3) the period of time during which the collection may occur."

In line 1 of the title, after "partnerships;" strike the remainder of the title and insert "adding a new section to chapter 47.04 RCW; and adding a new chapter to Title 47 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1541 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Wallace and Woods spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1541 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1541, as amended by the Senate and the bill passed the House by the following vote: Yeas - 94, Nays - 2, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 94.

Voting nay: Representatives Dunn and Hasegawa - 2.

Excused: Representatives Chandler and Condotta - 2.

SUBSTITUTE HOUSE BILL NO. 1541, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 15, 2005

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1739, with the following amendment:

On page 3, line 1, strike "((~~own, transport, or~~))" and insert "own, transport, or"

On page 3, line 4, after "chapter." insert "However, a vintage snowmobile only requires registration if operated within this state."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1739 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Wallace and Ericksen spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of House Bill No. 1739 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1739, as amended by the Senate and the bill passed the House by the following vote: Yeas - 94, Nays - 2, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell,

Chase, Clements, Clibborn, Cody, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Wood, Woods and Mr. Speaker - 94.

Voting nay: Representatives Dunn and Williams - 2.

Excused: Representatives Chandler and Condotta - 2.

HOUSE BILL NO. 1739, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1754, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.48.010 and 2004 c 266 s 14 are each amended to read as follows:

(1) With express authorization from the county legislative authority, the county auditor may conduct all primary, special, and general elections entirely by mail ballot. The county legislative authority must give the county auditor at least ninety days' notice before the first election to be conducted entirely by mail ballot. If the county legislative authority and the county auditor decide to return to a polling place election environment, the county legislative authority must give the county auditor at least one hundred eighty days' notice before the first election to be conducted using polling places. Authorization under this subsection must apply to all primary, special, and general elections conducted by the county auditor.

(2) The county auditor may designate any precinct having fewer than two hundred active registered voters at the time of closing of voter registration as provided in RCW 29A.08.140 as a mail ballot precinct. ((~~The county auditor shall notify each registered voter by mail that for all future primaries and elections the voting in his or her precinct will be by mail ballot only.~~)) Authorization from the county legislative authority is not required to designate a precinct as a mail ballot precinct under this subsection. In determining the number of registered voters in a precinct for the purposes of this section, persons who are ongoing absentee voters under RCW 29A.40.040 shall not be counted. Nothing in this section may be construed as altering the vote tallying requirements of RCW 29A.60.230.

(3) The county auditor shall notify each registered voter by mail that for all future primaries and elections the voting will be by mail ballot only. The auditor shall mail each active voter a ballot at least eighteen days before a primary, general election, or special election. The auditor shall send each inactive voter either a ballot or an application to receive a ballot at least eighteen days before a primary, general election, or special election. The auditor shall determine which of the two is to be sent. If the inactive voter returns a voted ballot, the ballot shall be counted and the voter's status restored to active. If the inactive voter completes and returns an application, a ballot shall be sent and the voter's status restored to active. The requirements regarding certification, reporting, and the mailing of overseas and military ballots in RCW ((~~29.36.270~~)) 29A.40.070 apply to elections conducted by mail ballot ((~~precincts~~)).

(4) If the ((~~precinct exceeds two hundred registered voters, or the~~)) county legislative authority and county auditor determine under subsection (1) of this section, or if the county auditor determines under subsection (2) of this section, to return to a polling place election environment, the auditor shall notify each registered voter, by mail, of this and shall provide the address of the polling place to be used.

NEW SECTION. **Sec. 2.** The secretary of state shall evaluate available technologies to allow voters the ability to conveniently determine if their mail ballots were received and counted by their county auditor. No later than December 31, 2006, the secretary of state shall submit a report to the legislature outlining available mail ballot tracking technology. The report must include the secretary of state's recommendations on whether such technology should be implemented, and if so, how."

On page 1, line 1 of the title, after "elections;" strike the remainder of the title and insert "amending RCW 29A.48.010; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1754 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Hunt and Nixon spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1754 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1754, as amended by the Senate and the bill passed the House by the following vote: Yeas - 83, Nays - 13, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Chase, Clibborn, Cody, Conway, Crouse, Curtis, Darneille, DeBolt,

Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hudgins, Hunt, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 83.

Voting nay: Representatives Campbell, Clements, Cox, Dunn, Hinkle, Holmquist, Hunter, Kristiansen, McCune, Orcutt, Pearson, Roach and Talcott - 13.

Excused: Representatives Chandler and Condotta - 2.

SUBSTITUTE HOUSE BILL NO. 1754, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 15, 2005

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1771, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.235.160 and 2004 c 54 s 2 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Free or reduced-price lunch" means a lunch served by a school district participating in the national school lunch program to a student qualifying for national school lunch program benefits based on family size-income criteria.

(b) "School lunch program" means a meal program meeting the requirements defined by the superintendent of public instruction under subsection (((~~(4)~~))) (2)(b) of this section.

(c) "School breakfast program" means a program meeting federal requirements defined in 42 U.S.C. Sec. 1773.

(d) "Severe-need school" means a school that qualifies for a severe-need school reimbursement rate from federal funds for school breakfasts served to children from low-income families.

(e) "Summer food service program" means a meal or snack program meeting the requirements defined by the superintendent of public instruction under subsection (((~~(5)~~))) (4) of this section.

(2) School districts shall implement a school lunch program in each public school in the district in which educational services are provided to children in any of the grades kindergarten through four and in which twenty-five percent or more of the enrolled students qualify for a free or reduced-price lunch. In developing and implementing its school lunch program, each school district may consult with an advisory committee including school staff, community members, and others appointed by the board of directors of the district.

(((~~(3)~~))) (a) Applications to determine free or reduced-price lunch eligibility shall be distributed and collected for all households of children in schools containing any of the grades kindergarten through four and in which there are no United States department of agriculture child nutrition programs. The applications that are collected must be reviewed to determine eligibility for free or reduced-price lunches. Nothing in this section shall be construed to require completion or submission of the application by a parent or guardian.

(((~~(4)~~))) (b) Using the most current available school data on free and reduced-price lunch eligibility, the superintendent of public instruction shall adopt a schedule for implementation of school lunch programs at each school required to offer such a program under subsection (2) of this section as follows:

(((~~(a)~~))) (i) Schools not offering a school lunch program and in which twenty-five percent or more of the enrolled students are eligible for free or reduced-price lunch shall implement a school lunch program not later than the second day of school in the 2005-06 school year and in each school year thereafter.

(((~~(b)~~))) (ii) The superintendent shall establish minimum standards defining the lunch meals to be served, and such standards must be sufficient to qualify the meals for any available federal reimbursement.

(((~~(c)~~))) (iii) Nothing in this section shall be interpreted to prevent a school from implementing a school lunch program earlier than the school is required to do so.

(((~~(5)~~))) (3) To extent funds are appropriated for this purpose, each school district shall implement a school breakfast program in each school where more than forty percent of students eligible to participate in the school lunch program qualify for free or reduced-price meal reimbursement by the school year 2005-06. For the second year before the implementation of the district's school breakfast program, and for each subsequent school year, each school district shall submit data enabling the superintendent of public instruction to determine which schools within the district will qualify for this requirement. Schools where lunch programs start after the 2003-04 school year, where forty percent of students qualify for free or reduced-price meals, must begin school breakfast programs the second year following the start of a lunch program.

(4) Each school district shall implement a summer food service program in each public school in the district in which a summer program of academic, enrichment, or remedial services is provided and in which fifty percent or more of the children enrolled in the school qualify for free or reduced-price lunch. However, the superintendent of public instruction shall develop rules establishing criteria to permit an exemption for a school that can demonstrate availability of an adequate alternative summer feeding program. Sites providing meals should be open to all children in the area, unless a compelling case can be made to limit access to the program. The superintendent of public instruction shall adopt a definition of compelling case and a schedule for implementation as follows:

(a) Beginning the summer of 2005 if the school currently offers a school breakfast or lunch program; or

(b) Beginning the summer following the school year during which a school implements a school lunch program under subsection (((~~(4)~~))) (2)(b) of this section.

(((~~(6)~~))) (5) Schools not offering a breakfast or lunch program may meet the meal service requirements of subsections (2)(b) and (4) ((~~and (5)~~)) of this section through any of the following:

(a) Preparing the meals on-site;

(b) Receiving the meals from another school that participates in a United States department of agriculture child nutrition program; or

(c) Contracting with a nonschool entity that is a licensed food service establishment under RCW 69.07.010.

((~~(7)~~)) (6) Requirements that school districts have a school lunch, breakfast, or summer nutrition program under this section shall not create or imply any state funding obligation for these costs. The legislature does not intend to include these programs within the state's obligation for basic education funding under Article IX of the state Constitution.

((~~(8)~~)) (7) The requirements in this section shall lapse if the federal reimbursement for any school breakfasts, lunches, or summer food service programs is eliminated.

((~~(9)~~)) (8) School districts may be exempted from the requirements of this section by showing good cause why they cannot comply with the office of the superintendent of public instruction to the extent that such exemption is not in conflict with federal or state law. The process and criteria by which school districts are exempted shall be developed by the office of the superintendent of public instruction in consultation with representatives of school directors, school food service, community-based organizations and the Washington state PTA.

Sec. 2. 2004 c 54 s 1 (uncodified) is amended to read as follows:

The legislature recognizes that hunger and food insecurity are serious problems in the state. Since the United States department of agriculture began to collect data on hunger and food insecurity in 1995, Washington has been ranked each year within the top ((~~five~~)) ten states with the highest levels of hunger. A significant number of these households classified as hungry are families with children.

The legislature recognizes the correlation between adequate nutrition and a child's development and school performance. This problem can be greatly diminished through improved access to federal nutrition programs.

The legislature also recognizes that improved access to federal nutrition and assistance programs, such as the federal food stamp program and child nutrition programs, can be a critical factor in enabling recipients to gain the ability to support themselves and their families. This is an important step towards self-sufficiency and decreased long-term reliance on governmental assistance and will serve to strengthen families in this state."

On page 1, line 1 of the title, after "programs;" strike the remainder of the title and insert "amending RCW 28A.235.160; and amending 2004 c 54 s 1 (uncodified)."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1771 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Quall spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of House Bill No. 1771 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1771, as amended by the Senate and the bill passed the House by the following vote: Yeas - 89, Nays - 7, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 89.

Voting nay: Representatives Dunn, Holmquist, Kretz, Kristiansen, Orcutt, Pearson and Sump - 7.

Excused: Representatives Chandler and Condotta - 2.

HOUSE BILL NO. 1771, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1895, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 44.39.010 and 2001 c 214 s 30 are each amended to read as follows:

There is hereby created the joint committee on energy supply ((~~of the legislature of the state of Washington~~)) and energy conservation.

Sec. 2. RCW 44.39.070 and 2002 c 192 s 1 are each amended to read as follows:

(1) The committee shall meet and function at the following times: (a) At least once per year or at anytime upon the call of the chair to receive information related to the state or regional energy supply situation; (b) during a condition of energy supply alert or energy emergency; and (c) upon the call of the chair, in response to gubernatorial action to terminate such a condition. Upon the declaration by the governor of a condition of energy supply alert or energy emergency, the committee ((~~on energy supply~~)) shall meet to receive any plans proposed by the governor for programs, controls, standards, and priorities for the production, allocation, and consumption of energy during any current or anticipated condition of

energy supply alert or energy emergency, any proposed plans for the suspension or modification of existing rules of the Washington Administrative Code, and any other relevant matters the governor deems desirable. The committee shall review such plans and matters and shall transmit its recommendations to the governor for review. The committee may review any voluntary programs or local or regional programs for the production, allocation, or consumption of energy which have been submitted to the committee.

(2) The committee shall receive any request from the governor for the approval of a declaration of a condition of energy emergency as provided in RCW 43.21G.040 as now or hereafter amended and shall either approve or disapprove such request.

(3) During a condition of energy supply alert, the committee shall: (a) Receive any request from the governor for an extension of the condition of energy supply alert for an additional period of time not to exceed ninety consecutive days and the findings upon which such request is based; (b) receive any request from the governor for subsequent extensions of the condition of energy supply alert for an additional period of time not to exceed one hundred twenty consecutive days and the findings upon which such a request is based; and (c) either approve or disapprove the requested extensions. When approving a request, the committee may specify a longer period than requested, up to ninety days for initial extensions and one hundred twenty days for additional extensions.

(4) During a condition of energy emergency the committee shall: (a) Receive any request from the governor for an extension of the condition of energy emergency for an additional period of time not to exceed forty-five consecutive days and the finding upon which any such request is based; (b) receive any request from the governor for subsequent extensions of the condition of energy emergency for an additional period of time not to exceed sixty consecutive days and the findings upon which such a request is based; and (c) either approve or disapprove the requested extensions. When approving a request, the committee may specify a longer period than requested, up to forty-five days for initial extensions and sixty days for additional extensions.

NEW SECTION. **Sec. 3.** It is the intent of the legislature to utilize lessons learned from efforts to conserve energy usage in single state buildings or complexes and extend conservation measures across all levels of government. Implementing conservation measures across all levels of government will create actual energy conservation savings, maintenance and cost savings to state and local governments, and savings to the state economy, which depends on affordable, realizable electricity to retain jobs. The legislature intends that conservation measures be identified and aggregated within a government entity or among multiple government entities to maximize energy savings and project efficiencies.

NEW SECTION. **Sec. 4.** A new section is added to chapter 44.39 RCW to read as follows:

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

(1) "Committee" means the joint committee on energy supply and energy conservation.

(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.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.19 RCW to read as follows:

(1) Municipalities may conduct energy audits and implement cost-effective energy conservation measures among multiple government entities.

(2) All municipalities shall report to the department if they implemented or did not implement, during the previous biennium, cost-effective energy conservation measures aggregated among multiple government entities. The reports must be submitted to the department by September 1, 2007, and by September 1, 2009. In collecting the reports, the department shall cooperate with the appropriate associations that represent municipalities.

(3) The department shall prepare a report summarizing the reports submitted by municipalities under subsection (2) of this section and shall report to the committee by December 31, 2007, and by December 31, 2009.

(4) For the purposes of this section, the following definitions apply:

(a) "Committee" means the joint committee on energy supply and energy conservation in chapter 44.39 RCW.

(b) "Cost-effective energy conservation measures" has the meaning provided in RCW 43.19.670.

(c) "Department" means the department of general administration.

(d) "Energy audit" has the meaning provided in RCW 43.19.670.

(e) "Municipality" has the meaning provided in RCW 39.04.010.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.19 RCW to read as follows:

Financing to implement conservation measures, including fees charged by the department, may be carried out with bonds issued by the Washington economic development finance authority under chapter 43.163 RCW."

On page 1, line 1 of the title, after "efficiency;" strike the remainder of the title and insert "amending RCW 44.39.010 and 44.39.070; adding a new section to chapter 44.39 RCW; adding new sections to chapter 43.19 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1895 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Morris spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1895 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1895, as amended by the Senate and the bill

passed the House by the following vote: Yeas - 96, Nays - 0, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Excused: Representatives Chandler and Condotta - 2.

SUBSTITUTE HOUSE BILL NO. 1895, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 15, 2005

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 1998, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) It is the intent of the legislature, through the creation of the apple award, to honor and reward students in Washington's public elementary schools who have shown significant improvement in their school's results on the Washington assessment of student learning.

(2) The apple award program is created to honor and reward public elementary schools that have the greatest combined average increase in the percentage of students meeting the fourth grade reading, mathematics, and writing standards on the Washington assessment of student learning each school year. The program shall be administered by the state board of education.

(3) Within the amounts appropriated for this purpose, each school that receives an apple award shall be provided with a twenty-five thousand dollar grant to be used for capital construction purposes that have been selected by students in the school and approved by the district's school directors. The funds may be used exclusively for capital construction projects on school property or on other public property in the community, city, or county in which the school is located."

On page 1, line 2 of the title, after "achievement;" strike the remainder of the title and insert "and adding a new section to chapter 28A.655 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 1998 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Quall and Talcott spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed House Bill No. 1998 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1998, as amended by the Senate and the bill passed the House by the following vote: Yeas - 95, Nays - 1, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 95.

Voting nay: Representative Dunn - 1.

Excused: Representatives Chandler and Condotta - 2.

ENGROSSED HOUSE BILL NO. 1998, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 15, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2081, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that Hood Canal is a precious aquatic resource of our state. The legislature finds that Hood Canal is a rich source of recreation, fishing, aquaculture, and aesthetic enjoyment for the citizens of this state. The legislature also finds that Hood Canal has great cultural significance for the tribes in the Hood Canal area. The legislature therefore recognizes Hood Canal's substantial environmental, cultural, economic, recreational, and aesthetic importance in this state.

(2) The legislature finds that Hood Canal is a marine water of the state at significant risk. The legislature finds that Hood Canal has a "dead zone" related to low-dissolved oxygen concentrations, a condition that has recurred for many years. The legislature also finds that this problem and various contributors to the problem were documented in the May 2004 *Preliminary Assessment and Corrective Action Plan* published by the state Puget Sound action team and the Hood Canal coordinating council.

(3) The legislature further finds that significant research, monitoring, and study efforts are currently occurring regarding Hood Canal's low-dissolved oxygen concentrations. The legislature also finds numerous public, private, and community organizations are working to provide public education and identify potential solutions. The legislature recognizes that, while some information and research is now available and some potential solutions have been identified, more research and analysis is needed to fully develop a program to address Hood Canal's low-dissolved oxygen concentrations.

(4) The legislature finds a need exists for the state to take action to address Hood Canal's low-dissolved oxygen concentrations. The legislature also finds establishing an aquatic rehabilitation zone for Hood Canal will serve as a statutory framework for future regulations and programs directed at recovery of this important aquatic resource.

(5) The legislature therefore intends to establish an aquatic rehabilitation zone for Hood Canal as the framework to address Hood Canal's low-dissolved oxygen concentrations. The legislature also intends to incorporate provisions in the new statutory chapter creating the designation as solutions are identified regarding this problem.

NEW SECTION. **Sec. 2.** (1) Aquatic rehabilitation zones may be designated by the legislature for areas whose surrounding marine water bodies pose serious environmental or public health concerns.

(2) Aquatic rehabilitation zone one is established. Aquatic rehabilitation zone one includes all watersheds that drain to Hood Canal south of a line projected from Tala Point in Jefferson county to Foulweather Bluff in Kitsap county.

NEW SECTION. **Sec. 3.** This chapter does not apply to forest practices regulated under chapter 76.09 RCW.

NEW SECTION. **Sec. 4.** This chapter does not alter, diminish, or expand the jurisdictional authorities in other statutes or affect the application of other statutory requirements or programs that do not specifically refer to aquatic rehabilitation zones.

NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute a new chapter in Title 90 RCW.

NEW SECTION. **Sec. 6.** 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."

On page 1, line 2 of the title, after "programs;" strike the remainder of the title and insert "adding a new chapter to Title 90 RCW; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2081 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Eickmeyer spoke in favor the passage of the bill.

Representative Pearson spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 2081 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2081, as amended by the Senate and the bill passed the House by the following vote: Yeas - 63, Nays - 33, Absent - 0, Excused - 2.

Voting yea: Representatives Appleton, Blake, Buck, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Santos, Schual-Berke, Sells, Shabro, Simpson, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 63.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buri, Clements, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Roach, Rodne, Schindler, Serben, Skinner, Sump, Talcott and Tom - 33.

Excused: Representatives Chandler and Condotta - 2.

SUBSTITUTE HOUSE BILL NO. 2081, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 11, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2097, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that Hood Canal is a precious aquatic resource of our state. The legislature finds that Hood Canal is a rich source of recreation, fishing, aquaculture, and aesthetic enjoyment for the citizens of this state. The legislature also finds that Hood Canal has great cultural significance for the tribes in the Hood Canal area. The legislature therefore recognizes Hood Canal's substantial environmental, cultural, economic, recreational, and aesthetic importance to Washington.

(2) The legislature finds that Hood Canal is a marine water of the state at significant risk. The legislature finds that Hood Canal has a "dead zone" related to low-dissolved oxygen concentrations, a condition that has recurred for many years. The legislature also finds this problem and various contributors to the problem were documented in the May 2004 *Preliminary Assessment and Corrective Action Plan* published by the state Puget Sound action team and the Hood Canal coordinating council.

(3) The legislature further finds that significant research, monitoring, and study efforts are currently occurring regarding Hood Canal's low-dissolved oxygen concentrations. The legislature recognizes that federal, state, tribal, and local governments and other organizations and entities are coordinating research, monitoring, and modeling efforts through the Hood Canal low-dissolved oxygen program. The legislature also recognizes that these entities and others are continuing individual efforts to study and identify potential solutions for Hood Canal's low-dissolved oxygen concentrations. The legislature also recognizes numerous public, private, and community organizations are working to provide public education regarding Hood Canal's low- dissolved oxygen concentrations. The legislature recognizes and encourages the continuation of these efforts.

(4) The legislature finds a need exists for the state to provide additional resources to address Hood Canal's low-dissolved oxygen concentrations. The legislature also finds a need exists to designate the state and local entities to develop, coordinate, and administer a Hood Canal rehabilitation program and funding.

NEW SECTION. **Sec. 2.** (1) The development of a program for rehabilitation of Hood Canal is authorized in Jefferson, Kitsap, and Mason counties within the aquatic rehabilitation zone one.

(2) The Puget Sound action team is designated as the state lead agency for the rehabilitation program authorized in this section.

(3) The Hood Canal coordinating council is designated as the local management board for the rehabilitation program authorized in this section.

(4) The Puget Sound action team and the Hood Canal coordinating council must each approve and must comanage projects under the rehabilitation program authorized in this section.

NEW SECTION. **Sec. 3.** (1) The Hood Canal coordinating council shall serve as the local management board for aquatic rehabilitation zone one. The local management board shall coordinate local government efforts with respect to the program authorized according to section 2 of this act. In the Hood Canal area, the Hood Canal coordinating council also shall:

(a) Serve as the lead entity and the regional recovery organization for the purposes of chapter 77.85 RCW for Hood Canal summer chum; and

(b) Assist in coordinating activities under chapter 90.82 RCW.

(2) When developing and implementing the program authorized in section 2 of this act and when establishing funding criteria according to subsection (7) of this section, the Puget Sound action team and the local management board shall solicit participation by federal, tribal, state, and local agencies and universities and nonprofit organizations with expertise in areas related to program activities. The local management board may include state and federal agency representatives, or additional persons, as nonvoting management board members or may receive technical assistance and advice from them in other venues. The local management board also may appoint technical advisory committees as needed.

(3) The local management board and the Puget Sound action team shall participate in the development of the program authorized under section 2 of this act.

(4) The local management board and its participating local and tribal governments shall assess concepts for a regional governance structure and shall submit a report regarding the findings and recommendations to the appropriate committees of the legislature by December 1, 2007.

(5) Any of the local management board's participating counties and tribes, any federal, tribal, state, or local agencies, or any universities or nonprofit organizations may continue individual efforts and activities for rehabilitation of Hood Canal. Nothing in this section limits the authority of units of local government to enter into interlocal agreements under chapter 39.34 RCW or any other provision of law.

(6) The local management board may not exercise authority over land or water within the individual counties or otherwise preempt the authority of any units of local government.

(7) The local management board and the Puget Sound action team each may receive and disburse funding for projects, studies, and activities related to Hood Canal's low-dissolved oxygen concentrations. The Puget Sound action team and the local management board shall jointly coordinate a process to prioritize projects, studies, and activities for which the Puget Sound action team receives state funding specifically allocated for Hood Canal corrective actions to implement this section. The local management board and the Puget Sound action team shall establish criteria for funding these projects, studies, and activities based upon their likely value in addressing and resolving Hood Canal's low-dissolved oxygen concentrations. Final approval for projects under this section requires the consent of both the Puget Sound action team and the local management board. Projects under this section must be comanaged by the Puget Sound action team and the local management board. Nothing in this section prohibits any federal, tribal, state, or local agencies, universities, or nonprofit organizations from receiving funding for specific projects that may assist in the rehabilitation of Hood Canal.

(8) The local management board may hire and fire staff, including an executive director, enter into contracts, accept grants and other moneys, disburse funds, make recommendations to local governments about potential regulations and the development of programs and incentives upon request, pay all necessary expenses, and choose a fiduciary agent.

(9) The local management board shall report its progress on a quarterly basis to the legislative bodies of the participating counties

and tribes and the participating state agencies. The local management board also shall submit an annual report describing its efforts and successes in implementing the program established according to section 2 of this act to the appropriate committees of the legislature.

NEW SECTION. **Sec. 4.** This act does not apply to forest practices regulated under chapter 76.09 RCW.

NEW SECTION. **Sec. 5.** Nothing in this act provides any regulatory authority to the Puget Sound action team or the Hood Canal coordinating council.

NEW SECTION. **Sec. 6.** The activities of the Puget Sound action team and the Hood Canal coordinating council required by this act are subject to the availability of amounts appropriated for this specific purpose.

NEW SECTION. **Sec. 7.** Sections 2 and 3 of this act are each added to chapter 90.-- RCW (the new chapter created in Substitute House Bill No. 2081).

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

On page 1, line 2 of the title, after "rehabilitation;" strike the remainder of the title and insert "adding new sections to chapter 90.-- RCW; creating new sections; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2097 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Eickmeyer and Pearson spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Substitute House Bill No. 2097 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2097, as amended by the Senate and the bill passed the House by the following vote: Yeas - 94, Nays - 2, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Alexander, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 94.

Voting nay: Representatives Anderson and Dunn - 2.

Excused: Representatives Chandler and Condotta - 2.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2097, as amended by the Senate having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 19, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendment to SECOND SUBSTITUTE SENATE BILL NO. 5202 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House receded from its position and passed to final passage SECOND SUBSTITUTE SENATE BILL NO. 5202 without the House's amendment.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5202 without the House's amendment.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5202, without House amendment(s) and the bill passed the House by the following vote: Yeas - 92, Nays - 4, Absent - 0, Excused - 2.

Voting yea: Representatives Ahern, Appleton, Armstrong, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Conway, Cox, Crouse, Curtis, Darneille, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P.,

Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 92.

Voting nay: Representatives Alexander, Anderson, Bailey and DeBolt - 4.

Excused: Representatives Chandler and Condotta - 2.

SECOND SUBSTITUTE SENATE BILL NO. 5202, without House amendment, having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 19, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 5732 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House receded from its position, suspended the rules and returned ENGROSSED SUBSTITUTE SENATE BILL NO. 5732 to Second Reading for purposes of amendment.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5732, By Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators McAuliffe, Weinstein, Schmidt, Berkey, Rockefeller, Shin, Prentice, Thibaudeau, Pridemore, Carrell, Kohl-Welles, Regala, Spanel, Fairley, Delvin and Rasmussen)

Revising the powers, duties, and membership of the state board of education and the Washington professional educator standards board and eliminating the academic achievement and accountability commission.

Representative McDermott moved the adoption of amendment (585):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature intends to reconstitute the state board of education and to refocus its purpose; to abolish the academic achievement and accountability commission; to assign policy and rule-making authority for educator preparation and certification to the professional educator standards board and to clearly define its purpose; and to align the missions of the state board of education and the professional educator standards board to create a collaborative and effective governance system that can accelerate progress towards achieving the goals in RCW 28A.150.210.

PART 1
STATE BOARD OF EDUCATION

NEW SECTION. **Sec. 101.** A new section is added to chapter 28A.305 RCW to read as follows:

(1) The membership of the state board of education shall be composed of sixteen members who are residents of the state of Washington:

(a) Seven shall be members representing the educational system, as follows:

(i) Five members elected by school district directors. Three of the members elected by school district directors shall be residents of western Washington and two members shall be residents of eastern Washington;

(ii) One member elected at-large by the members of the boards of directors of all private schools in the state meeting the requirements of RCW 28A.195.010; and

(iii) The superintendent of public instruction;

(b) Seven members appointed by the governor; and

(c) Two students selected in a manner determined by the state board of education.

(2) Initial appointments shall be for terms from one to four years in length, with the terms expiring on the second Monday of January of the applicable year. As the terms of the first appointees expire or vacancies on the board occur, the governor shall appoint or reappoint members of the board to complete the initial terms or to four-year terms, as appropriate.

(a) Appointees of the governor must be individuals who have demonstrated interest in public schools and are supportive of educational improvement, have a positive record of service, and who will devote sufficient time to the responsibilities of the board.

(b) In appointing board members, the governor shall consider the diversity of the population of the state.

(c) All appointments to the board made by the governor are subject to confirmation by the senate.

(d) No person may serve as a member of the board, except the superintendent of public instruction, for more than two consecutive full four-year terms.

(3) The governor may remove an appointed member of the board for neglect of duty, misconduct, malfeasance, or misfeasance in office, or for incompetent or unprofessional conduct as defined in chapter 18.130 RCW. In such a case, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary of state shall send a certified copy of the statement of causes and order of removal to the last known post office address of the member.

(4)(a) The chair of the board shall be elected by a majority vote of the members of the board. The chair of the board shall serve a term of two years, and may be reelected to an additional term. A member of the board may not serve as chair for more than two consecutive terms.

(b) Eight voting members of the board constitute a quorum for the transaction of business.

(c) All members except the student members are voting members.

(5) Members of the board appointed by the governor who are not public employees shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec. 102.** A new section is added to chapter 28A.305 RCW to read as follows:

The election of state board of education members by school directors and private school board members shall be conducted by the

office of the superintendent of public instruction for the members of the state board who begin serving on January 1, 2006, and thereafter.

(1) The superintendent shall adopt rules for the conduct of elections, which shall include, but need not be limited to: The definition of the eastern Washington and western Washington geographic regions of the state for the purpose of determining board member positions; the weighting of votes cast by the number of students in the school director's school district or board member's private school; election and dispute resolution procedures; the process for filling vacancies; and election timelines. The election timeline shall include calling for elections no later than the twenty-fifth of August, and notification of the election results no later than the fifteenth of December.

(2) State board member positions one and two shall be filled by residents of the eastern Washington region and positions three, four, and five shall be filled by residents of the western Washington region.

(3) A school director shall be eligible to vote only for a candidate for each position in the geographic region within which the school director resides.

(4) Initial terms of the individuals elected by the school directors shall be for terms of two to four years in length as follows: Two members, one from eastern Washington and one from western Washington, shall be elected to two-year terms; two members, one from eastern Washington and one from western Washington, shall be elected to four-year terms; and one member from western Washington shall be elected to a three-year term. The term of the private school member shall be two years. All terms shall expire on the second Monday of January of the applicable year.

(5) No person employed in any public or private school, college, university, or other educational institution or any educational service district superintendent's office or in the office of the superintendent of public instruction is eligible for membership on the state board of education. No member of a board of directors of a local school district or private school may continue to serve in that capacity after having been elected to the state board.

NEW SECTION. **Sec. 103.** A new section is added to chapter 28A.305 RCW to read as follows:

By October 15th of each even-numbered year, the state board of education and the professional educator standards board shall submit a joint report to the legislative education committees, the governor, and the superintendent of public instruction. The report shall address the progress the boards have made and the obstacles they have encountered, individually and collectively, in the work of achieving the goals in RCW 28A.150.210.

Sec. 104. RCW 28A.305.130 and 2002 c 205 s 3 are each amended to read as follows:

The purpose of the state board of education is to adopt statewide policies that promote achievement of the goals of RCW 28A.150.210; implement a standards-based accountability system; and provide leadership in the creation of an education system that respects the diverse cultures, abilities, and learning styles of all students. In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Until January 1, 2006, approve or disapprove the program of courses leading to teacher, school administrator, and school specialized personnel certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive such certification.

(2) Until January 1, 2006, conduct every five years a review of the program approval standards, including the minimum standards for teachers, administrators, and educational staff associates, to reflect research findings and assure continued improvement of preparation programs for teachers, administrators, and educational staff associates.

(3) Until January 1, 2006, investigate the character of the work required to be performed as a condition of entrance to and graduation from any institution of higher education in this state relative to such certification as provided for in subsection (1) of this section, and prepare a list of accredited institutions of higher education of this and other states whose graduates may be awarded such certificates.

(4) Until January 1, 2006:

(a) ((~~The state board of education shall~~)) Adopt rules to allow a teacher certification candidate to fulfill, in part, teacher preparation program requirements through work experience as a classified teacher's aide in a public school or private school meeting the requirements of RCW 28A.195.010. The rules shall include, but are not limited to, limitations based upon the recency of the teacher preparation candidate's teacher aide work experience, and limitations based on the amount of work experience that may apply toward teacher preparation program requirements under this chapter((~~.~~)); and

(b) ((~~The state board of education shall~~)) Require that at the time of the individual's enrollment in a teacher preparation program, the supervising teacher and the building principal shall jointly provide to the teacher preparation program of the higher education institution at which the teacher candidate is enrolled, a written assessment of the performance of the teacher candidate. The assessment shall contain such information as determined by the state board of education and shall include: Evidence that at least fifty percent of the candidate's work as a classified teacher's aide was involved in instructional activities with children under the supervision of a certificated teacher and that the candidate worked a minimum of six hundred thirty hours for one school year; the type of work performed by the candidate; and a recommendation of whether the candidate's work experience as a classified teacher's aide should be substituted for teacher preparation program requirements. In compliance with such rules as may be established by the state board of education under this section, the teacher preparation programs of the higher education institution where the candidate is enrolled shall make the final determination as to what teacher preparation program requirements may be fulfilled by teacher aide work experience.

(5) Until January 1, 2006, supervise the issuance of such certificates as provided for in subsection (1) of this section and specify the types and kinds of certificates necessary for the several departments of the common schools by rule or regulation in accordance with RCW 28A.410.010.

(6) Hold regularly scheduled meetings at such time and place within the state as the board shall determine and may hold such special meetings as may be deemed necessary for the transaction of public business.

(7) Form committees as necessary to effectively and efficiently conduct the work of the board.

(8) Seek advice from the public and interested parties regarding the work of the board.

(9) For purposes of statewide accountability, the board shall:

(a) Adopt and revise performance improvement goals in reading, writing, science, and mathematics, by subject and grade level, once assessments in these subjects are required statewide; academic and technical skills, as appropriate, in secondary career and technical education programs; and student attendance, as the board deems appropriate to improve student learning. The goals shall be

consistent with student privacy protection provisions of RCW 28A.655.090(7) and shall not conflict with requirements contained in Title I of the federal elementary and secondary education act of 1965, or the requirements of the Carl D. Perkins vocational education act of 1998, each as amended. The goals may be established for all students, economically disadvantaged students, limited English proficient students, students with disabilities, and students from disproportionately academically underachieving racial and ethnic backgrounds. The board may establish school and school district goals addressing high school graduation rates and dropout reduction goals for students in grades seven through twelve. The board shall adopt the goals by rule. However, before each goal is implemented, the board shall present the goal to the education committees of the house of representatives and the senate for the committees' review and comment in a time frame that will permit the legislature to take statutory action on the goal if such action is deemed warranted by the legislature;

(b) Identify the scores students must achieve in order to meet the standard on the Washington assessment of student learning and, for high school students, to obtain a certificate of academic achievement. The board shall also determine student scores that identify levels of student performance below and beyond the standard. The board shall consider the incorporation of the standard error of measurement into the decision regarding the award of the certificates. The board shall set such performance standards and levels in consultation with the superintendent of public instruction and after consideration of any recommendations that may be developed by any advisory committees that may be established for this purpose. The initial performance standards and any changes recommended by the board in the performance standards for the tenth grade assessment shall be presented to the education committees of the house of representatives and the senate by November 30th of the school year in which the changes will take place to permit the legislature to take statutory action before the changes are implemented if such action is deemed warranted by the legislature. The legislature shall be advised of the initial performance standards and any changes made to the elementary level performance standards and the middle school level performance standards;

(c) Adopt objective, systematic criteria to identify successful schools and school districts and recommend to the superintendent of public instruction schools and districts to be recognized for two types of accomplishments, student achievement and improvements in student achievement. Recognition for improvements in student achievement shall include consideration of one or more of the following accomplishments:

(i) An increase in the percent of students meeting standards. The level of achievement required for recognition may be based on the achievement goals established by the legislature and by the board under (a) of this subsection;

(ii) Positive progress on an improvement index that measures improvement in all levels of the assessment; and

(iii) Improvements despite challenges such as high levels of mobility, poverty, English as a second language learners, and large numbers of students in special populations as measured by either the percent of students meeting the standard, or the improvement index. When determining the baseline year or years for recognizing individual schools, the board may use the assessment results from the initial years the assessments were administered, if doing so with individual schools would be appropriate;

(d) Adopt objective, systematic criteria to identify schools and school districts in need of assistance and those in which significant numbers of students persistently fail to meet state standards. In its deliberations, the board shall consider the use of all statewide mandated criterion-referenced and norm-referenced standardized tests;

(e) Identify schools and school districts in which state intervention measures will be needed and a range of appropriate intervention strategies after the legislature has authorized a set of intervention strategies. After the legislature has authorized a set of intervention strategies, at the request of the board, the superintendent shall intervene in the school or school district and take corrective actions. This chapter does not provide additional authority for the board or the superintendent of public instruction to intervene in a school or school district;

(f) Identify performance incentive systems that have improved or have the potential to improve student achievement;

(g) Annually review the assessment reporting system to ensure fairness, accuracy, timeliness, and equity of opportunity, especially with regard to schools with special circumstances and unique populations of students, and a recommendation to the superintendent of public instruction of any improvements needed to the system;

(h) Include in the biennial report required under section 103 of this act, information on the progress that has been made in achieving goals adopted by the board.

(10) Accredit, subject to such accreditation standards and procedures as may be established by the state board of education, all schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades kindergarten through twelve: PROVIDED, That no private school may be approved that operates a kindergarten program only: PROVIDED FURTHER, That no public or private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials: PROVIDED FURTHER, That the state board may elect to require all or certain classifications of the public schools to conduct and participate in such preaccreditation examination and evaluation processes as may now or hereafter be established by the board.

((~~(7)~~)) (11) Make rules and regulations governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established the district must obtain prior approval of the state board.

((~~(8)~~)) (12) Prepare such outline of study for the common schools as the board shall deem necessary, and in conformance with legislative requirements, and prescribe such rules for the general government of the common schools, as shall seek to secure regularity of attendance, prevent truancy, secure efficiency, and promote the true interest of the common schools.

((~~(9)~~)) (13) Continuously reevaluate courses and other requirements and adopt and enforce regulations within the common schools so as to meet the educational needs of students ((~~and~~)).

(14) Evaluate course of study requirements and articulate with the institutions of higher education, work force representatives, and early learning policymakers and providers to coordinate and unify the work of the public school system.

((~~(10)~~)) (15) Carry out board powers and duties relating to the organization and reorganization of school districts ((~~under RCW 28A.315.010 through 28A.315.680 and 28A.315.900~~)).

((~~(11)~~)) (16) Hear and decide appeals as otherwise provided by law.

((~~The state board of education is given the authority to~~)) (17) Promulgate information and rules dealing with the prevention of child abuse for purposes of curriculum use in the common schools.

(18) Hire an executive director and an administrative assistant to reside in the office of the superintendent of public instruction for administrative purposes. Any other personnel of the board shall be appointed as provided by RCW 28A.300.020. The executive director, administrative assistant, and all but one of the other personnel of the board are exempt from civil service, together with other staff as now or hereafter designated as exempt in accordance with chapter 41.06 RCW.

(19) Adopt a seal that shall be kept in the office of the superintendent of public instruction.

Sec. 105. RCW 28A.505.210 and 2001 c 3 s 3 are each amended to read as follows:

School districts shall have the authority to decide the best use of student achievement funds to assist students in meeting and exceeding the new, higher academic standards in each district consistent with the provisions of chapter 3, Laws of 2001.

(1) Student achievement funds shall be allocated for the following uses:

(a) To reduce class size by hiring certificated elementary classroom teachers in grades K-4 and paying nonemployee-related costs associated with those new teachers;

(b) To make selected reductions in class size in grades 5-12, such as small high school writing classes;

(c) To provide extended learning opportunities to improve student academic achievement in grades K-12, including, but not limited to, extended school year, extended school day, before-and-after-school programs, special tutoring programs, weekend school programs, summer school, and all-day kindergarten;

(d) To provide additional professional development for educators, including additional paid time for curriculum and lesson redesign and alignment, training to ensure that instruction is aligned with state standards and student needs, reimbursement for higher education costs related to enhancing teaching skills and knowledge, and mentoring programs to match teachers with skilled, master teachers. The funding shall not be used for salary increases or additional compensation for existing teaching duties, but may be used for extended year and extended day teaching contracts;

(e) To provide early assistance for children who need prekindergarten support in order to be successful in school;

(f) To provide improvements or additions to school building facilities which are directly related to the class size reductions and extended learning opportunities under (a) through (c) of this subsection.

(2) Annually on or before May 1st, the school district board of directors shall meet at the time and place designated for the purpose of a public hearing on the proposed use of these funds to improve student achievement for the coming year. Any person may appear or by written submission have the opportunity to comment on the proposed plan for the use of these funds. No later than August 31st, as a part of the process under RCW 28A.505.060, each school district shall adopt a plan for the use of these funds for the upcoming school year. Annually, each school district shall provide to the citizens of their district a public accounting of the funds made available to the district during the previous school year under chapter 3, Laws of 2001, how the funds were used, and the progress the district has made in increasing student achievement, as measured by required state assessments and other assessments deemed appropriate by the district. Copies of this report shall be provided to the superintendent of public instruction ((~~and to the academic achievement and accountability commission~~)).

Sec. 106. RCW 28A.655.070 and 2004 c 19 s 204 are each amended to read as follows:

(1) The superintendent of public instruction shall develop essential academic learning requirements that identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, develop student assessments, and implement the accountability recommendations and requests regarding assistance, rewards, and recognition of the ((~~academic achievement and accountability commission~~)) state board of education.

(2) The superintendent of public instruction shall:

(a) Periodically revise the essential academic learning requirements, as needed, based on the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. To the maximum extent possible, the superintendent shall integrate goal four and the knowledge and skill areas in the other goals in the essential academic learning requirements; and

(b) Review and prioritize the essential academic learning requirements and identify, with clear and concise descriptions, the grade level content expectations to be assessed on the Washington assessment of student learning and used for state or federal accountability purposes. The review, prioritization, and identification shall result in more focus and targeting with an emphasis on depth over breadth in the number of grade level content expectations assessed at each grade level. Grade level content expectations shall be articulated over the grades as a sequence of expectations and performances that are logical, build with increasing depth after foundational knowledge and skills are acquired, and reflect, where appropriate, the sequential nature of the discipline. The office of the superintendent of public instruction, within seven working days, shall post on its web site any grade level content expectations provided to an assessment vendor for use in constructing the Washington assessment of student learning.

(3) In consultation with the ((~~academic achievement and accountability commission~~)) state board of education, the superintendent of public instruction shall maintain and continue to develop and revise a statewide academic assessment system in the content areas of reading, writing, mathematics, and science for use in the elementary, middle, and high school years designed to determine if each student has mastered the essential academic learning requirements identified in subsection (1) of this section. School districts shall administer the assessments under guidelines adopted by the superintendent of public instruction. The academic assessment system shall include a variety of assessment methods, including criterion-referenced and performance-based measures.

(4) If the superintendent proposes any modification to the essential academic learning requirements or the statewide assessments, then the superintendent shall, upon request, provide opportunities for the education committees of the house of representatives and the senate to review the assessments and proposed modifications to the essential academic learning requirements before the modifications are adopted.

(5)(a) The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who have not mastered the essential academic learning requirements at the appropriate periods in the student's educational development.

(b) Assessments measuring the essential academic learning requirements in the content area of science shall be available for mandatory use in middle schools and high schools by the 2003-04 school year and for mandatory use in elementary schools by the

2004-05 school year unless the legislature takes action to delay or prevent implementation of the assessment.

(6) By September 2007, the results for reading and mathematics shall be reported in a format that will allow parents and teachers to determine the academic gain a student has acquired in those content areas from one school year to the next.

(7) To assist parents and teachers in their efforts to provide educational support to individual students, the superintendent of public instruction shall provide as much individual student performance information as possible within the constraints of the assessment system's item bank. The superintendent shall also provide to school districts:

(a) Information on classroom-based and other assessments that may provide additional achievement information for individual students; and

(b) A collection of diagnostic tools that educators may use to evaluate the academic status of individual students. The tools shall be designed to be inexpensive, easily administered, and quickly and easily scored, with results provided in a format that may be easily shared with parents and students.

(8) To the maximum extent possible, the superintendent shall integrate knowledge and skill areas in development of the assessments.

(9) Assessments for goals three and four of RCW 28A.150.210 shall be integrated in the essential academic learning requirements and assessments for goals one and two.

(10) The superintendent shall develop assessments that are directly related to the essential academic learning requirements, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender.

(11) The superintendent shall consider methods to address the unique needs of special education students when developing the assessments under this section.

(12) The superintendent shall consider methods to address the unique needs of highly capable students when developing the assessments under this section.

(13) The superintendent shall post on the superintendent's web site lists of resources and model assessments in social studies, the arts, and health and fitness.

PART 2
ASHINGTON PROFESSIONAL EDUCATOR STANDARDS BOARD

Sec. 201. RCW 28A.410.210 and 2000 c 39 s 103 are each amended to read as follows:

The purpose of the professional educator standards board is to establish policies and requirements for the preparation and certification of educators that provide standards for competency in professional knowledge and practice in the areas of certification; a foundation of skills, knowledge, and attitudes necessary to help students with diverse needs, abilities, cultural experiences, and learning styles meet or exceed the learning goals outlined in RCW 28A.150.210; knowledge of research-based practice; and professional development throughout a career. The Washington professional educator standards board shall:

(1) Establish policies and practices for the approval of programs of courses, requirements, and other activities leading to educator certification including teacher, school administrator, and educational staff associate certification;

(2) Establish policies and practices for the approval of the character of work required to be performed as a condition of entrance to and graduation from any educator preparation program including teacher, school administrator, and educational staff associate preparation program as provided in subsection (1) of this section;

(3) Establish a list of accredited institutions of higher education of this and other states whose graduates may be awarded educator certificates as teacher, school administrator, and educational staff associate and establish criteria and enter into agreements with other states to acquire reciprocal approval of educator preparation programs and certification, including teacher certification from the national board for professional teaching standards;

(4) Establish policies for approval of nontraditional educator preparation programs;

(5) Conduct a review of educator program approval standards at least every five years, beginning in 2006, to reflect research findings and assure continued improvement of preparation programs for teachers, administrators, and school specialized personnel;

(6) Specify the types and kinds of educator certificates to be issued and conditions for certification in accordance with subsection (1) of this section and RCW 28A.410.010;

(7) Hear and determine educator certification appeals as provided by RCW 28A.410.100;

(8) Apply for and receive federal or other funds on behalf of the state for purposes related to the duties of the board;

(9) Adopt rules under chapter 34.05 RCW that are necessary for the effective and efficient implementation of this chapter;

(10) Maintain data concerning educator preparation programs and their quality, educator certification, educator employment trends and needs, and other data deemed relevant by the board;

(11) Serve as an advisory body to the superintendent of public instruction ((~~and as the sole advisory body to the state board of education~~)) on issues related to educator recruitment, hiring, ((~~preparation, certification including high quality alternative routes to certification,~~)) mentoring and support, professional growth, retention, ((~~governance, prospective teacher pedagogy assessment, prospective principal assessment,~~)) educator evaluation including but not limited to peer evaluation, and revocation and suspension of licensure;

(((~~(2)~~))) (12) Submit ((~~annual reports and recommendations, beginning December 1, 2000, to the governor, the education and fiscal committees of the legislature, the state board of education, and the superintendent of public instruction concerning duties and activities within the board's advisory capacity. The Washington professional educator standards board shall submit a separate report by December 1, 2000, to the governor, the education and fiscal committees of the legislature, the state board of education, and the superintendent of public instruction providing recommendations for at least two high quality alternative routes to teacher certification. In its deliberations, the board shall consider at least one route that permits persons with substantial subject matter expertise to achieve residency certification through an on-the-job training program provided by a school district~~)), by October 15th of each even-numbered year, a joint report with the state board of education to the legislative education committees, the governor, and the superintendent of public instruction. The report shall address the progress the boards have made and the obstacles they have encountered, individually and collectively, in the work of achieving the goals set out in RCW 28A.150.210; ((~~and~~

~~(3)~~)) (13) Establish the prospective teacher assessment system for basic skills and subject knowledge that shall be required to obtain residency certification pursuant to RCW 28A.410.220 through 28A.410.240; and

(14) Conduct meetings under the provisions of chapter 42.30 RCW.

Sec. 202. RCW 28A.410.200 and 2003 1st sp.s. c 22 s 1 are each amended to read as follows:

(1)(a) The Washington professional educator standards board is created, consisting of twenty members to be appointed by the governor to four-year terms and the superintendent of public instruction((~~, who shall be an ex officio, nonvoting member~~)).

(b) As the four-year terms of the first appointees expire or vacancies to the board occur for the first time, the governor shall appoint or reappoint the members of the board to one-year to four-year staggered terms. Once the one-year to three-year terms expire, all subsequent terms shall be for four years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(c) No person may serve as a member of the board for more than two consecutive full four-year terms.

(d) The governor shall annually appoint the chair of the board from among the teachers and principals on the board. No board member may serve as chair for more than two consecutive years.

(2) Seven of the members shall be public school teachers, one shall be a private school teacher, three shall represent higher education educator preparation programs, four shall be school administrators, two shall be educational staff associates, one shall be a classified employee who assists in public school student instruction, one shall be a parent, and one shall be a member of the public.

(3) Public school teachers appointed to the board must:

(a) Have at least three years of teaching experience in a Washington public school;

(b) Be currently certificated and actively employed in a teaching position; and

(c) Include one teacher currently teaching at the elementary school level, one at the middle school level, one at the high school level, and one vocationally certificated.

(4) Private school teachers appointed to the board must:

(a) Have at least three years of teaching experience in a Washington approved private school; and

(b) Be currently certificated and actively employed in a teaching position in an approved private school.

(5) Appointees from higher education educator preparation programs must include two representatives from institutions of higher education as defined in RCW 28B.10.016 and one representative from an institution of higher education as defined in RCW 28B.07.020(4).

(6) School administrators appointed to the board must:

(a) Have at least three years of administrative experience in a Washington public school district;

(b) Be currently certificated and actively employed in a school administrator position; and

(c) Include two public school principals, one Washington approved private school principal, and one superintendent.

(7) Educational staff associates appointed to the board must:

(a) Have at least three years of educational staff associate experience in a Washington public school district; and

(b) Be currently certificated and actively employed in an educational staff associate position.

(8) Public school classified employees appointed to the board must:

(a) Have at least three years of experience in assisting in the instruction of students in a Washington public school; and

(b) Be currently employed in a position that requires the employee to assist in the instruction of students.

(9) Each major caucus of the house of representatives and the senate shall submit a list of at least one public school teacher. In making the public school teacher appointments, the governor shall select one nominee from each list provided by each caucus. The governor shall appoint the remaining members of the board from a list of qualified nominees submitted to the governor by organizations representative of the constituencies of the board, from applications from other qualified individuals, or from both nominees and applicants.

(10) All appointments to the board made by the governor shall be subject to confirmation by the senate.

(11) The governor shall appoint the members of the initial board no later than June 1, 2000.

(12) In appointing board members, the governor shall consider the diversity of the population of the state.

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

(14) The governor may remove a member of the board for neglect of duty, misconduct, malfeasance or misfeasance in office, or for incompetency or unprofessional conduct as defined in chapter 18.130 RCW. In such a case, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary of state shall send a certified copy of the statement of causes and order of removal to the last known post office address of the member.

(15) If a vacancy occurs on the board, the governor shall appoint a replacement member from the nominees as specified in subsection (9) of this section to fill the remainder of the unexpired term. When filling a vacancy of a member nominated by a major caucus of the legislature, the governor shall select the new member from a list of at least one name submitted by the same caucus that provided the list from which the retiring member was appointed.

(16) Members of the board shall hire an executive director and an administrative assistant to reside in the office of the superintendent of public instruction for administrative purposes only.

Sec. 203. RCW 28A.410.010 and 2001 c 263 s 1 are each amended to read as follows:

The ((~~state board of education~~)) Washington professional educator standards board shall establish, publish, and enforce rules ((~~and regulations~~)) determining eligibility for and certification of personnel employed in the common schools of this state, including certification for emergency or temporary, substitute or provisional duty and under such certificates or permits as the board shall deem proper or as otherwise prescribed by law. The rules shall require that the initial application for certification shall require a record check of the applicant through the Washington state patrol criminal identification system and through the federal bureau of investigation at the applicant's expense. The record check shall include a fingerprint check using a complete Washington state criminal identification fingerprint card. The superintendent of public instruction may waive the record check for any applicant who has had a record check within the two years before application. The rules shall permit a holder of a lapsed certificate but not a revoked or suspended certificate to be employed on a conditional basis by a school district with the requirement that the holder must complete any certificate renewal requirements established by the state board of education within two years of initial reemployment.

In establishing rules pertaining to the qualifications of instructors of American sign language the ((~~state~~)) board shall consult with the national association of the deaf, "sign instructors guidance network" (s.i.g.n.), and the Washington state association of the deaf for evaluation and certification of sign language instructors.

The superintendent of public instruction shall act as the administrator of any such rules ((~~and regulations~~)) and have the power to issue any certificates or permits and revoke the same in accordance with board rules ((~~and regulations~~)).

Sec. 204. RCW 28A.410.040 and 1992 c 141 s 101 are each amended to read as follows:

The ((~~state board of education~~)) Washington professional educator standards board shall adopt rules providing that, except as provided in this section, all individuals qualifying for an initial-level teaching certificate after August 31, 1992, shall possess a baccalaureate degree in the arts, sciences, and/or humanities and have fulfilled the requirements for teacher certification pursuant to RCW ((~~28A.305.130 (1) and (2)~~)) 28A.410.210. However, candidates for grades preschool through eight certificates shall have fulfilled the requirements for a major as part of their baccalaureate degree. If the major is in early childhood education, elementary education, or special education, the candidate must have at least thirty quarter hours or twenty semester hours in one academic field.

Sec. 205. RCW 28A.410.050 and 1992 c 141 s 102 are each amended to read as follows:

The ((~~state board of education~~)) Washington professional educator standards board shall develop and adopt rules establishing baccalaureate and masters degree equivalency standards for vocational instructors performing instructional duties and acquiring certification after August 31, 1992.

Sec. 206. RCW 28A.410.060 and 1990 c 33 s 407 are each amended to read as follows:

The fee for any certificate, or any renewal thereof, issued by the authority of the state of Washington, and authorizing the holder to teach or perform other professional duties in the public schools of the state shall be not less than one dollar or such reasonable fee therefor as the ((~~state board of education~~)) Washington professional educator standards board by rule ((~~or regulation~~)) shall deem necessary therefor. The fee must accompany the application and cannot be refunded unless the application is withdrawn before it is finally considered. The educational service district superintendent, or other official authorized to receive such fee, shall within thirty days transmit the same to the treasurer of the county in which the office of the educational service district superintendent is located, to be by him or her placed to the credit of said school district or educational service district: PROVIDED, That if any school district collecting fees for the certification of professional staff does not hold a professional training institute separate from the educational service district then all such moneys shall be placed to the credit of the educational service district.

Such fees shall be used solely for the purpose of precertification professional preparation, program evaluation, and professional in-service training programs in accord with rules ((~~and regulations~~)) of the ((~~state board of education~~)) Washington professional educator standards board herein authorized.

Sec. 207. RCW 28A.410.100 and 1992 c 159 s 6 are each amended to read as follows:

Any teacher whose certificate to teach has been questioned under RCW 28A.410.090 shall have a right to be heard by the issuing authority before his or her certificate is revoked. Any teacher whose certificate to teach has been revoked shall have a right of appeal to the ((~~state board of education~~)) Washington professional educator standards board if notice of appeal is given by written affidavit to the board within thirty days after the certificate is revoked.

An appeal to the ((~~state board of education~~)) Washington professional educator standards board within the time specified shall operate as a stay of revocation proceedings until the next regular or special meeting of said board and until the board's decision has been rendered.

Sec. 208. RCW 28A.410.120 and 1990 c 33 s 411 are each amended to read as follows:

Notwithstanding any other provision of this title, the ((~~state board of education~~)) Washington professional educator standards board or superintendent of public instruction shall not require any professional certification or other qualifications of any person elected superintendent of a local school district by that district's board of directors, or any person hired in any manner to fill a position designated as, or which is, in fact, deputy superintendent, or assistant superintendent.

Sec. 209. RCW 28A.415.023 and 1997 c 90 s 1 are each amended to read as follows:

(1) Credits earned by certificated instructional staff after September 1, 1995, shall be eligible for application to the salary schedule developed by the legislative evaluation and accountability program committee only if the course content:

(a) Is consistent with a school-based plan for mastery of student learning goals as referenced in RCW ((~~28A.320.205~~)) 28A.655.110, the annual school performance report, for the school in which the individual is assigned;

(b) Pertains to the individual's current assignment or expected assignment for the subsequent school year;

(c) Is necessary to obtain an endorsement as prescribed by the ((~~state board of education~~)) Washington professional educator standards board;

(d) Is specifically required to obtain advanced levels of certification; or

(e) Is included in a college or university degree program that pertains to the individual's current assignment, or potential future assignment, as a certified instructional staff.

(2) For the purpose of this section, "credits" mean college quarter hour credits and equivalent credits for approved in-service, approved continuing education, or approved internship hours computed in accordance with RCW 28A.415.020.

(3) The superintendent of public instruction shall adopt rules and standards consistent with the limits established by this section for certificated instructional staff.

Sec. 210. RCW 28A.415.060 and 1991 c 155 s 1 are each amended to read as follows:

The ((~~state board of education~~)) Washington professional educator standards board rules for continuing education shall provide that educational staff associates may use credits or clock hours that satisfy the continuing education requirements for their state professional licensure, if any, to fulfill the continuing education requirements established by the ((~~state board of education~~)) Washington professional educator standards board.

Sec. 211. RCW 28A.415.205 and 1991 c 238 s 75 are each amended to read as follows:

(1) The Washington state minority teacher recruitment program is established. The program shall be administered by the ((~~state board of education~~)) Washington professional educator standards board. The ((~~state board of education~~)) Washington professional educator standards board shall consult with the higher education coordinating board, representatives of institutions of higher education, education organizations having an interest in teacher recruitment issues, the superintendent of public instruction, the state board for community and technical colleges, the department of employment security, and the work force training and education coordinating board. The program shall be designed to recruit future teachers from students in the targeted groups who are in the ninth through twelfth grades and from adults in the targeted groups who have entered other occupations.

(2) The program shall include the following:

(a) Encouraging students in targeted groups in grades nine through twelve to acquire the academic and related skills necessary to prepare for the study of teaching at an institution of higher education;

(b) Promoting teaching career opportunities to develop an awareness of opportunities in the education profession;

(c) Providing opportunities for students to experience the application of regular high school course work to activities related to a teaching career; and

(d) Providing for increased cooperation among institutions of higher education including community colleges, the superintendent of public instruction, the ((~~state board of education~~)) Washington professional educator standards board, and local school districts in working toward the goals of the program.

Sec. 212. RCW 28A.150.060 and 1990 c 33 s 102 are each amended to read as follows:

The term "certificated employee" as used in RCW 28A.195.010, 28A.150.060, 28A.150.260, 28A.405.100, 28A.405.210, 28A.405.240, 28A.405.250, 28A.405.300 through 28A.405.380, and chapter 41.59 RCW, shall include those persons who hold certificates as authorized by rule ((~~or regulation~~)) of the ((~~state board of education~~)) Washington professional educator standards board or the superintendent of public instruction.

Sec. 213. RCW 28A.170.080 and 1990 c 33 s 157 are each amended to read as follows:

(1) Grants provided under RCW 28A.170.090 may be used solely for services provided by a substance abuse intervention specialist or for dedicated staff time for counseling and intervention services provided by any school district certificated employee who has been trained by and has access to consultation with a substance abuse intervention specialist. Services shall be directed at assisting students in kindergarten through twelfth grade in overcoming problems of drug and alcohol abuse, and in preventing abuse and addiction to such substances, including nicotine. The grants shall require local matching funds so that the grant amounts support a maximum of eighty percent of the costs of the services funded. The services of a substance abuse intervention specialist may be obtained by means of a contract with a state or community services agency or a drug treatment center. Services provided by a substance abuse intervention specialist may include:

(a) Individual and family counseling, including preventive counseling;

(b) Assessment and referral for treatment;

(c) Referral to peer support groups;

(d) Aftercare;

(e) Development and supervision of student mentor programs;

(f) Staff training, including training in the identification of high-risk children and effective interaction with those children in the classroom; and

(g) Development and coordination of school drug and alcohol core teams, involving staff, students, parents, and community members.

(2) For the purposes of this section, "substance abuse intervention specialist" means any one of the following, except that diagnosis and assessment, counseling and aftercare specifically identified with treatment of chemical dependency shall be performed only by personnel who meet the same qualifications as are required of a qualified chemical dependency counselor employed by an alcoholism or drug treatment program approved by the department of social and health services.

(a) An educational staff associate employed by a school district or educational service district who holds certification as a school counselor, school psychologist, school nurse, or school social worker under ((~~state board of education~~)) Washington professional educator standards board rules adopted pursuant to RCW ((~~28A.305.130~~)) 28A.410.210;

(b) An individual who meets the definition of a qualified drug or alcohol counselor established by the bureau of alcohol and substance abuse;

(c) A counselor, social worker, or other qualified professional employed by the department of social and health services;

(d) A psychologist licensed under chapter 18.83 RCW; or

(e) A children's mental health specialist as defined in RCW 71.34.020.

Sec. 214. RCW 28A.205.010 and 1999 c 348 s 2 are each amended to read as follows:

(1) As used in this chapter, unless the context thereof shall clearly indicate to the contrary:

"Education center" means any private school operated on a profit or nonprofit basis which does the following:

(a) Is devoted to the teaching of basic academic skills, including specific attention to improvement of student motivation for achieving, and employment orientation.

(b) Operates on a clinical, client centered basis. This shall include, but not be limited to, performing diagnosis of individual educational abilities, determination and setting of individual goals, prescribing and providing individual courses of instruction therefor, and evaluation of each individual client's progress in his or her educational program.

(c) Conducts courses of instruction by professionally trained personnel certificated by the ((~~state board of education~~)) Washington professional educator standards board according to rules adopted for the purposes of this chapter and providing, for certification purposes, that a year's teaching experience in an education center shall be deemed equal to a year's teaching experience in a common or private school.

(2) For purposes of this chapter, basic academic skills shall include the study of mathematics, speech, language, reading and composition, science, history, literature and political science or civics; it shall not include courses of a vocational training nature and shall not include courses deemed nonessential to the accrediting of the common schools or the approval of private schools under RCW 28A.305.130.

(3) The state board of education shall certify an education center only upon application and (a) determination that such school comes within the definition thereof as set forth in subsection (1) of this section and (b) demonstration on the basis of actual educational performance of such applicants' students which shows after consideration of their students' backgrounds, educational gains that are a direct result of the applicants' educational program. Such certification may be withdrawn if the board finds that a center fails to provide adequate instruction in basic academic skills. No education center certified by the state board of education pursuant to this section shall be deemed a common school under RCW 28A.150.020 or a private school for the purposes of RCW 28A.195.010 through 28A.195.050.

Sec. 215. RCW 28A.205.050 and 1995 c 335 s 201 are each amended to read as follows:

In accordance with chapter 34.05 RCW, the administrative procedure act, the ((~~state board of education~~)) Washington professional educator standards board with respect to the matter of certification, and the superintendent of public instruction with respect to all other matters, shall have the power and duty to make the necessary rules to carry out the purpose and intent of this chapter.

Sec. 216. RCW 28A.405.210 and 1996 c 201 s 1 are each amended to read as follows:

No teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with a school district, hereinafter referred to as "employee", shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless he or she is the holder of an effective teacher's certificate or other certificate required by law or the ((~~state board of education~~)) Washington professional educator standards board for the position for which the employee is employed.

The board shall make with each employee employed by it a written contract, which shall be in conformity with the laws of this state, and except as otherwise provided by law, limited to a term of not more than one year. Every such contract shall be made in duplicate, one copy to be retained by the school district superintendent or secretary and one copy to be delivered to the employee. No contract shall be offered by any board for the employment of any employee who has previously signed an employment contract for that same term in another school district of the state of Washington unless such employee shall have been released from his or her obligations under such previous contract by the board of directors of the school district to which he or she was obligated. Any contract signed in violation of this provision shall be void.

In the event it is determined that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term such employee shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 1st, which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for hearing pursuant to RCW 28A.405.310 to determine whether there is sufficient cause or causes for nonrenewal of contract: PROVIDED, That any employee receiving notice of nonrenewal of contract due to an enrollment decline or loss of revenue may, in his or her request for a hearing, stipulate that initiation of the arrangements for a hearing officer as provided for by RCW 28A.405.310(4) shall occur within ten days following July 15 rather than the day that the employee submits the request for a hearing. If any such notification or opportunity for hearing is not timely given, the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual terms identical with those which would have prevailed if his or her employment had actually been renewed by the board of directors for such ensuing term.

This section shall not be applicable to "provisional employees" as so designated in RCW 28A.405.220; transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 shall not be construed as a nonrenewal of contract for the purposes of this section.

Sec. 217. RCW 28B.10.140 and 2004 c 60 s 1 are each amended to read as follows:

The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College are each authorized to train teachers and other personnel for whom teaching certificates or special credentials prescribed by the ((~~state board of education~~)) Washington professional educator standards board are required, for any grade, level, department, or position of the public schools of the state.

Sec. 218. RCW 18.118.010 and 1990 c 33 s 553 are each amended to read as follows:

(1) The purpose of this chapter is to establish guidelines for the regulation of the real estate profession and other business professions which may seek legislation to substantially increase their scope of practice or the level of regulation of the profession, and for the regulation of business professions not licensed or regulated on July 26, 1987: PROVIDED, That the provisions of this chapter are not intended and shall not be construed to: (a) Apply to any regulatory entity created prior to July 26, 1987, except as provided in this chapter; (b) affect the powers and responsibilities of the superintendent of public instruction or ((~~state board of education~~)) Washington professional educator standards board under RCW ((~~28A.305.130~~)) 28A.410.210 and 28A.410.010; (c) apply to or interfere in any way with the practice of religion or to any kind of treatment by prayer; (d) apply to any remedial or technical amendments to any statutes which licensed or regulated activity before July 26, 1987; and (e) apply to proposals relating solely to continuing education. The legislature believes that all individuals should be permitted to enter into a business profession unless there is an overwhelming need for the state to protect the interests of the public by restricting entry into the profession. Where such a need is identified, the regulation adopted by the state should be set at the least restrictive level consistent with the public interest to be protected.

(2) It is the intent of this chapter that no regulation shall be imposed upon any business profession except for the exclusive purpose of protecting the public interest. All bills introduced in the legislature to regulate a business profession for the first time should

be reviewed according to the following criteria. A business profession should be regulated by the state only when:

(a) Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(c) The public cannot be effectively protected by other means in a more cost-beneficial manner.

(3) After evaluating the criteria in subsection (2) of this section and considering governmental and societal costs and benefits, if the legislature finds that it is necessary to regulate a business profession not previously regulated by law, the least restrictive alternative method of regulation should be implemented, consistent with the public interest and this section:

(a) Where existing common law and statutory civil actions and criminal prohibitions are not sufficient to eradicate existing harm, the regulation should provide for stricter civil actions and criminal prosecutions;

(b) Where a service is being performed for individuals involving a hazard to the public health, safety, or welfare, the regulation should impose inspection requirements and enable an appropriate state agency to enforce violations by injunctive relief in court, including, but not limited to, regulation of the business activity providing the service rather than the employees of the business;

(c) Where the threat to the public health, safety, or economic well-being is relatively small as a result of the operation of the business profession, the regulation should implement a system of registration;

(d) Where the consumer may have a substantial basis for relying on the services of a practitioner, the regulation should implement a system of certification; or

(e) Where apparent that adequate regulation cannot be achieved by means other than licensing, the regulation should implement a system of licensing.

Sec. 219. RCW 18.120.010 and 1990 c 33 s 554 are each amended to read as follows:

(1) The purpose of this chapter is to establish guidelines for the regulation of health professions not licensed or regulated prior to July 24, 1983, and those licensed or regulated health professions which seek to substantially increase their scope of practice: PROVIDED, That the provisions of this chapter are not intended and shall not be construed to: (a) Apply to any regulatory entity created prior to July 24, 1983, except as provided in this chapter; (b) affect the powers and responsibilities of the superintendent of public instruction or ((~~state board of education~~)) Washington professional educator standards board under RCW ((~~28A.305.130~~)) 28A.410.210 and 28A.410.010; (c) apply to or interfere in any way with the practice of religion or to any kind of treatment by prayer; and (d) apply to any remedial or technical amendments to any statutes which licensed or regulated activity before July 24, 1983. The legislature believes that all individuals should be permitted to enter into a health profession unless there is an overwhelming need for the state to protect the interests of the public by restricting entry into the profession. Where such a need is identified, the regulation adopted by the state should be set at the least restrictive level consistent with the public interest to be protected.

(2) It is the intent of this chapter that no regulation shall, after July 24, 1983, be imposed upon any health profession except for the exclusive purpose of protecting the public interest. All bills introduced in the legislature to regulate a health profession for the first time should be reviewed according to the following criteria. A health profession should be regulated by the state only when:

(a) Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(c) The public cannot be effectively protected by other means in a more cost-beneficial manner.

(3) After evaluating the criteria in subsection (2) of this section and considering governmental and societal costs and benefits, if the legislature finds that it is necessary to regulate a health profession not previously regulated by law, the least restrictive alternative method of regulation should be implemented, consistent with the public interest and this section:

(a) Where existing common law and statutory civil actions and criminal prohibitions are not sufficient to eradicate existing harm, the regulation should provide for stricter civil actions and criminal prosecutions;

(b) Where a service is being performed for individuals involving a hazard to the public health, safety, or welfare, the regulation should impose inspection requirements and enable an appropriate state agency to enforce violations by injunctive relief in court, including, but not limited to, regulation of the business activity providing the service rather than the employees of the business;

(c) Where the threat to the public health, safety, or economic well-being is relatively small as a result of the operation of the health profession, the regulation should implement a system of registration;

(d) Where the consumer may have a substantial basis for relying on the services of a practitioner, the regulation should implement a system of certification; or

(e) Where apparent that adequate regulation cannot be achieved by means other than licensing, the regulation should implement a system of licensing.

Sec. 220. RCW 28A.410.032 and 1996 c 135 s 4 are each amended to read as follows:

Teachers of visually impaired students shall be qualified according to rules adopted by the ((~~state board of education~~)) professional educator standards board.

PART 3
TRANSFER OF POWERS AND DUTIES

NEW SECTION. **Sec. 301.** (1) The state board of education as constituted prior to the effective date of this section is hereby abolished and its powers, duties, and functions are hereby transferred to the state board of education as specified in this act. All references to the director or the state board of education as constituted prior to the effective date of this section in the Revised Code of Washington shall be construed to mean the director or the state board of education as specified in this act.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the state board of education as constituted prior to the effective date of this section shall be delivered to the custody of the state board of education as specified in this act. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the state board of education as constituted prior to the effective date of this section shall be made available to the state board of education as specified in this

act. All funds, credits, or other assets held by the state board of education as constituted prior to the effective date of this section shall be assigned to the state board of education as specified in this act.

(b) Any appropriations made to the state board of education as constituted prior to the effective date of this section shall, on the effective date of this section, be transferred and credited to the state board of education as specified in this act.

(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 employees of the state board of education as constituted prior to the effective date of this section are transferred to the jurisdiction of the state board of education as specified in this act. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the state board of education as specified in this act 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 state board of education as constituted prior to the effective date of this section shall be continued and acted upon by the state board of education as specified in this act. All existing contracts and obligations shall remain in full force and shall be performed by the state board of education as specified in this act.

(5) The transfer of the powers, duties, functions, and personnel of the state board of education as constituted prior to the effective date of this section 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) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel resources board as provided by law.

NEW SECTION. **Sec. 302.** (1) The academic achievement and accountability commission is hereby abolished and its powers, duties, and functions are hereby transferred to the state board of education. All references to the director or the academic achievement and accountability commission in the Revised Code of Washington shall be construed to mean the director or the state board of education.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the academic achievement and accountability commission shall be delivered to the custody of the state board of education. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the academic achievement and accountability commission shall be made available to the state board of education. All funds, credits, or other assets held by the academic achievement and accountability commission shall be assigned to the state board of education.

(b) Any appropriations made to the academic achievement and accountability commission shall, on the effective date of this section, be transferred and credited to the state board of education.

(c) If any question arises as to the transfer of any 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 academic achievement and accountability commission shall be continued and acted upon by the state board of education. All existing contracts and obligations shall remain in full force and shall be performed by the state board of education.

(4) The transfer of the powers, duties, and functions of the academic achievement and accountability commission shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel resources board as provided by law.

PART 4
MISCELLANEOUS

NEW SECTION. **Sec. 401.** The following acts or parts of acts as now existing or hereafter amended, are each repealed:

(1) RCW 28A.305.010 (Composition of board) and 1992 c 56 s 1, 1990 c 33 s 257, 1988 c 255 s 1, 1980 c 179 s 1, & 1969 ex.s. c 223 s 28A.04.010;

(2) RCW 28A.305.020 (Call and notice of elections) and 1990 c 33 s 258, 1988 c 255 s 2, 1981 c 38 s 1, & 1969 ex.s. c 223 s 28A.04.020;

(3) RCW 28A.305.030 (Elections in new congressional districts--Call and conduct of--Member terms--Transitional measures to reduce number of members from each district) and 1992 c 56 s 3, 1990 c 33 s 259, 1982 1st ex.s. c 7 s 1, & 1969 ex.s. c 223 s 28A.04.030;

(4) RCW 28A.305.040 (Declarations of candidacy--Qualifications of candidates--Members restricted from service on local boards--Forfeiture of office) and 1990 c 33 s 260, 1982 1st ex.s. c 7 s 2, 1980 c 179 s 4, 1975 1st ex.s. c 275 s 49, 1971 c 48 s 1, & 1969 ex.s. c 223 s 28A.04.040;

(5) RCW 28A.305.050 (Qualifications of voters--Ballots--Voting instructions--Candidates' biographical data) and 1990 c 33 s 261, 1988 c 255 s 3, 1981 c 38 s 2, & 1969 ex.s. c 223 s 28A.04.050;

(6) RCW 28A.305.060 (Election procedure--Certificate) and 1990 c 33 s 262, 1981 c 38 s 3, 1980 c 179 s 5, 1975 c 19 s 2, 1969 ex.s. c 283 s 25, & 1969 ex.s. c 223 s 28A.04.060;

(7) RCW 28A.305.070 (Action to contest election--Grounds--Procedure) and 1980 c 179 s 6 & 1975 c 19 s 1;

(8) RCW 28A.305.080 (Terms of office) and 1992 c 56 s 2, 1990 c 33 s 263, & 1969 ex.s. c 223 s 28A.04.070;

(9) RCW 28A.305.090 (Vacancies, filling) and 1990 c 33 s 264 & 1969 ex.s. c 223 s 28A.04.080;

(10) RCW 28A.305.100 (Superintendent as ex officio member and chief executive officer of board) and 1982 c 160 s 1 & 1969 ex.s. c 223 s 28A.04.090;

(11) RCW 28A.305.110 (Executive director--Secretary of board) and 1996 c 25 s 1, 1990 c 33 s 265, 1982 c 160 s 3, & 1969 ex.s. c 223 s 28A.04.100;

(12) RCW 28A.305.120 (Meetings--Compensation and travel expenses of members) and 1984 c 287 s 60, 1975-'76 2nd ex.s. c 34 s 67, 1973 c 106 s 13, & 1969 ex.s. c 223 s 28A.04.110; and

(13) RCW 28A.305.200 (Seal) and 1969 ex.s. c 223 s 28A.04.140.

NEW SECTION. **Sec. 402.** The following acts or parts of acts are each repealed:

(1) RCW 28A.655.020 (Academic achievement and accountability commission) and 1999 c 388 s 101;

(2) RCW 28A.655.030 (Essential academic learning requirements and assessments--Duties of the academic achievement and accountability commission) and 2004 c 19 s 205, 2002 c 37 s 1, & 1999 c 388 s 102; and

(3) RCW 28A.655.900 (Transfer of powers, duties, and functions) and 1999 c 388 s 502.

Sec. 403. RCW 28A.300.020 and 1996 c 25 s 2 are each amended to read as follows:

The superintendent of public instruction may appoint assistant superintendents of public instruction, a deputy superintendent of public instruction, and may employ such other assistants and clerical help as are necessary to carry out the duties of the superintendent and the state board of education. However, the superintendent shall employ without undue delay the executive director of the state board of education and other state board of education office assistants and clerical help, appointed by the state board under RCW ((~~28A.305.110~~)) 28A.305.130, whose positions are allotted and funded in accordance with moneys appropriated exclusively for the operation of the state board of education. The rate of compensation and termination of any such executive director, state board office assistants, and clerical help shall be subject to the prior consent of the state board of education. The assistant superintendents, deputy superintendent, and such other officers and employees as are exempted from the provisions of chapter 41.06 RCW, shall serve at the pleasure of the superintendent or at the pleasure of the superintendent and the state board of education as provided in this section. Expenditures by the superintendent of public instruction for direct and indirect support of the state board of education are valid operational expenditures by and in behalf of the office of the superintendent of public instruction.

Sec. 404. RCW 28A.310.110 and 1990 c 33 s 272 are each amended to read as follows:

Any common school district board member eligible to vote for a candidate for membership on an educational service district or any candidate for the position, within ten days after the secretary to the state board of education's certification of election, may contest the election of the candidate pursuant to chapter 29A.68 RCW ((~~28A.305.070~~)).

Sec. 405. RCW 28A.315.085 and 1999 c 315 s 206 are each amended to read as follows:

(1) The superintendent of public instruction shall furnish to the state board and to regional committees the services of employed personnel and the materials and supplies necessary to enable them to perform the duties imposed upon them by this chapter and shall reimburse the members thereof for expenses necessarily incurred by them in the performance of their duties, such reimbursement for regional committee members to be in accordance with RCW 28A.315.155, and such reimbursement for state board members to be in accordance with ((~~RCW 28A.305.120~~)) section 101 of this act.

(2) Costs that may be incurred by an educational service district in association with school district negotiations under RCW 28A.315.195 and supporting the regional committee under RCW 28A.315.205 shall be reimbursed by the state from such funds as are appropriated for these purposes.

NEW SECTION. **Sec. 406.** The professional educator standards board shall conduct a comprehensive analysis of the strengths and weaknesses of Washington's educator and administrator certification and preparation systems, and by December 1, 2005, transmit its findings and any recommendations to the legislative committees on education, the superintendent of public instruction, the state board of education, and the governor. The board shall use the analysis to develop a planning document to guide the assumption of policy and rule-making authority responsibilities for educator and administrator preparation and certification, consistent with the board's purpose.

NEW SECTION. **Sec. 407.** A joint subcommittee of the early learning, K-12 and higher education committee of the senate and the education committee of the house of representatives, in collaboration with the state board of education, school directors, administrators, principals, the superintendent of public instruction, parents, teachers, and other interested parties, shall review the statutory duties of the state board of education held before the effective date of this section, except the duties for educator certification that have been transferred to the professional educator standards board. Recommendations shall be reported to the early learning, K-12 and higher education committee of the senate and the education committee of the house of representatives by December 15, 2005.

NEW SECTION. **Sec. 408.** Part headings used in this act are not any part of the law.

NEW SECTION. **Sec. 409.** Sections 101, 103, 105, 106, 201 through 220, 301, 401, and 403 through 405 of this act take effect January 1, 2006.

NEW SECTION. **Sec. 410.** Sections 104, 302, 402, and 406 through 408 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2005.

NEW SECTION. **Sec. 411.** Section 102 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 4 of the title, after "commission;" strike the remainder of the title and insert "amending RCW 28A.305.130, 28A.505.210, 28A.655.070, 28A.410.210, 28A.410.200, 28A.410.010, 28A.410.040, 28A.410.050, 28A.410.060, 28A.410.100, 28A.410.120, 28A.415.023, 28A.415.060, 28A.415.205, 28A.150.060, 28A.170.080, 28A.205.010, 28A.205.050, 28A.405.210, 28B.10.140, 18.118.010, 18.120.010,

28A.410.032, 28A.300.020, 28A.310.110, and 28A.315.085; adding new sections to chapter 28A.305 RCW; creating new sections; repealing RCW 28A.305.010, 28A.305.020, 28A.305.030, 28A.305.040, 28A.305.050, 28A.305.060, 28A.305.070, 28A.305.080, 28A.305.090, 28A.305.100, 28A.305.110, 28A.305.120, 28A.305.200, 28A.655.020, 28A.655.030, and 28A.655.900; providing effective dates; and declaring an emergency."

Representative McDermott moved the adoption of amendment (898) to amendment (585):

On page 35, line 20, strike all of subsection (14)

Correct the title.

Representatives McDermott and Talcott spoke in favor of adoption of the amendment to the amendment.

The amendment to the amendment was adopted.

Amendment (585) as amended was adopted.

FINAL PASSAGE OF SENATE BILL AS HOUSE AMENDED

Representatives McDermott, Talcott and Eickmeyer spoke in favor the passage of the bill.

Representative Clements spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Substitute Senate Bill No. 5732 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5732, as amended by the House and the bill passed the House by the following vote: Yeas - 77, Nays - 19, Absent - 0, Excused - 2.

Voting yea: Representatives Alexander, Anderson, Appleton, Bailey, Blake, Buck, Buri, Campbell, Chase, Clibborn, Cody, Conway, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Rodne, Santos, Schual-Berke, Sells, Shabro, Simpson, Sommers, Springer, Strow, Sullivan, B., Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 77.

Voting nay: Representatives Ahern, Armstrong, Clements, Cox, Crouse, Dunn, Ericksen, Holmquist, Kretz, Kristiansen, McCune, Orcutt, Pearson, Roach, Schindler, Serben, Skinner, P. Sullivan and Sump - 19.

Excused: Representatives Chandler and Condotta - 2.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5732, as amended by the House having received the constitutional majority, was declared passed.

There being no objection, the House reconsidered the vote on third reading by which SECOND SUBSTITUTE SENATE BILL NO. 5202 passed the House.

There being no objection, the House deferred action on the reconsideration of the vote by which Second Substitute Senate Bill No. 5202 passed the House.

There being no objection, the Rules Committee was relieved of ENGROSSED SUBSTITUTE SENATE BILL NO. 5432, and the bill was placed on the Second Reading calendar.

REPORT OF CONFERENCE COMMITTEE

April 20, 2005

Mr. Speaker:

We of your Conference Committee, to whom was referred ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5763, creating the omnibus treatment of mental health and substance abuse disorders act of 2005, have had the same under consideration and we recommend that:

All previous amendments not be adopted and that the following striking amendment (H-3148.2) be adopted

and that the bill do pass as recommended by the Conference Committee.

Senator Hargrove — Representative Cody
Senator Regala — Representative Green

Strike everything after the enacting clause and insert the following:

"PART I
GENERAL PROVISIONS

NEW SECTION. **Sec. 101.** The legislature finds that persons with mental disorders, chemical dependency disorders, or co-occurring mental and substance abuse disorders are disproportionately more likely to be confined in a correctional institution, become homeless, become involved with child protective services or involved in a dependency proceeding, or lose those state and federal benefits to which they may be entitled as a result of their disorders. The legislature finds that prior state policy of addressing mental health and chemical dependency in isolation from each other has not been cost-effective and has often resulted in longer-term, more costly treatment that may be less effective over time. The legislature finds that a substantial number of persons have co-occurring mental and substance abuse disorders and that

identification and integrated treatment of co-occurring disorders is critical to successful outcomes and recovery. Consequently, the legislature intends, to the extent of available funding, to:

(1) Establish a process for determining which persons with mental disorders and substance abuse disorders have co-occurring disorders;

(2) Reduce the gap between available chemical dependency treatment and the documented need for treatment;

(3) Improve treatment outcomes by shifting treatment, where possible, to evidence-based, research-based, and consensus-based treatment practices and by removing barriers to the use of those practices;

(4) Expand the authority for and use of therapeutic courts including drug courts, mental health courts, and therapeutic courts for dependency proceedings;

(5) Improve access to treatment for persons who are not enrolled in medicaid by improving and creating consistency in the application processes, and by minimizing the numbers of eligible confined persons who leave confinement without medical assistance;

(6) Improve access to inpatient treatment by creating expanded services facilities for persons needing intensive treatment in a secure setting who do not need inpatient care, but are unable to access treatment under current licensing restrictions in other settings;

(7) Establish secure detoxification centers for persons involuntarily detained as gravely disabled or presenting a likelihood of serious harm due to chemical dependency and authorize combined crisis responders for both mental disorders and chemical dependency disorders on a pilot basis and study the outcomes;

(8) Slow or stop the loss of inpatient and intensive residential beds and children's long-term inpatient placements and refine the balance of state hospital and community inpatient and residential beds;

(9) Improve cross-system collaboration including collaboration with first responders and hospital emergency rooms, schools, primary care, developmental disabilities, law enforcement and corrections, and federally funded and licensed programs;

(10) Following the receipt of outcomes from the pilot programs in Part II of this act, if directed by future legislative enactment, implement a single, comprehensive, involuntary treatment act with a unified set of standards, rights, obligations, and procedures for adults and children with mental disorders, chemical dependency disorders, and co-occurring disorders; and

(11) Amend existing state law to address organizational and structural barriers to effective use of state funds for treating persons with mental and substance abuse disorders, minimize internal inconsistencies, clarify policy and requirements, and maximize the opportunity for effective and cost-effective outcomes.

NEW SECTION. **Sec. 102.** (1) The department of social and health services shall explore and report to the appropriate committees of the legislature by December 1, 2005, on the feasibility, costs, benefits, and time frame to access federal medicaid funds for mental health and substance abuse treatment under the following provisions:

(a) The optional clinic provisions;

(b) Children's mental health treatment or co-occurring disorders treatment under the early periodic screening, diagnosis, and treatment provisions.

(2) The department shall provide the appropriate committees of the legislature with a clear and concise explanation of the reasons for reducing state hospital capacity and the differences in costs and benefits of treatment in state and community hospital treatment.

(3) The department may not reduce the capacity of either state hospital until at least an equal number of skilled nursing, residential, expanded services facility, or supported housing placements are available in the community to the persons displaced by the capacity reduction.

Mental Health Treatment

NEW SECTION. **Sec. 103.** A new section is added to chapter 71.05 RCW to read as follows:

(1) Not later than January 1, 2007, all persons providing treatment under this chapter shall also implement the integrated comprehensive screening and assessment process for chemical dependency and mental disorders adopted pursuant to section 601 of this act and shall document the numbers of clients with co-occurring mental and substance abuse disorders based on a quadrant system of low and high needs.

(2) Treatment providers and regional support networks who fail to implement the integrated comprehensive screening and assessment process for chemical dependency and mental disorders by July 1, 2007, shall be subject to contractual penalties established under section 601 of this act.

Sec. 104. RCW 71.05.020 and 2000 c 94 s 1 are each amended to read as follows:

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

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

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

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

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

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

(6) ((~~"County designated mental health professional" means a mental health professional appointed by the county to perform the duties specified in this chapter;~~

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

(((~~(8)~~))) (7) "Department" means the department of social and health services;

(((~~(9)~~))) (8) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in chapter 70.96A RCW and sections 202 through 216 of this act;

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

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

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

(((~~(10)~~))) (12) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, psychologist, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(((~~(11)~~))) (13) "Developmental disability" means that condition defined in RCW 71A.10.020(3);

(((~~(12)~~))) (14) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(((~~(13)~~))) (15) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(((~~(14)~~))) (16) "Gravely disabled" means a condition in which a person, as a result of a mental disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(((~~(15)~~))) (17) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the ((~~individual~~)) person being assisted as manifested by prior charged criminal conduct;

(((~~(16)~~))) (18) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility or in confinement as a result of a criminal conviction;

(((~~(17)~~))) (19) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for ((~~an individual~~)) a person with developmental disabilities, which shall state:

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

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

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

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

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

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

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

(((~~(18)~~))) (20) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(((~~(19)~~))) (21) "Likelihood of serious harm" means:

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

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

(((~~(20)~~))) (22) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on ((~~an individual's~~)) a person's cognitive or volitional functions;

(((~~(21)~~))) (23) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(((~~(22)~~))) (24) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(((~~(23)~~))) (25) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital((~~, or sanitarium~~)), which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill;

(((~~(24)~~))) (26) "Professional person" means a mental health professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(((~~(25)~~))) (27) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(((~~(26)~~))) (28) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(((~~(27)~~))) (29) "Public agency" means any evaluation and treatment facility or institution, or hospital((~~, or sanitarium~~)) which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill((~~,~~)), if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

(((~~(28)~~))) (30) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness;

(31) "Release" means legal termination of the commitment under the provisions of this chapter;

(((~~(29)~~))) (32) "Resource management services" has the meaning given in chapter 71.24 RCW;

(((~~(30)~~))) (33) "Secretary" means the secretary of the department of social and health services, or his or her designee;

(((~~(31)~~))) (34) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary;

(((~~(32)~~))) (35) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others;

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

Sec. 105. RCW 71.24.025 and 2001 c 323 s 8 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Available resources" means funds appropriated for the purpose of providing community mental health programs ((~~under RCW 71.24.045~~)), federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other mental health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals, except as negotiated according to RCW 71.24.300(1)(e).

(3) "Child" means a person under the age of eighteen years.

(4) "Chronically mentally ill adult" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the department by rule consistent with Public Law 92-603, as amended.

(5) "Community mental health program" means all mental health services, activities, or programs using available resources.

(6) "Community mental health service delivery system" means public or private agencies that provide services specifically to persons with mental disorders as defined under RCW 71.05.020 and receive funding from public sources.

(7) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for mentally ill persons being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for acutely mentally ill and severely emotionally disturbed children discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by regional support networks.

(8) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this subsection which have entered into an agreement to provide a community mental health program.

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

(10) "Emerging best practice" or "promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

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

(12) "Licensed service provider" means an entity licensed according to this chapter or chapter 71.05 RCW or an entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department, that meets state minimum standards or ((~~individuals~~)) persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(((~~(11)~~))) (13) "Mental health services" means all services provided by regional support networks and other services provided by the state for the mentally ill.

(((~~(12)~~))) (14) "Mentally ill persons" and "the mentally ill" mean persons and conditions defined in subsections (1), (4), (((~~(17)~~))) (23), and (((~~(18)~~))) (24) of this section.

(((~~(13)~~))) (15) "Recovery" means the process in which people are able to live, work, learn, and participate fully in their communities.

(16) "Regional support network" means a county authority or group of county authorities or other entity recognized by the secretary ((~~that enter into joint operating agreements to contract with the secretary pursuant to this chapter~~)) in contract in a defined area.

(((~~(14)~~))) (17) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness.

(18) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for acutely mentally ill persons, chronically mentally ill adults, severely emotionally disturbed children, or seriously disturbed adults determined by the regional support network to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis

respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service mentally ill persons in nursing homes, boarding homes, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(((~~(15)~~))) (19) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(20) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(21) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Acutely mentally ill adults and children; (b) chronically mentally ill adults; (c) severely emotionally disturbed children; or (d) seriously disturbed adults determined solely by a regional support network to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding mentally ill adults' and children's enrollment in services and their individual service plan to ((~~county-~~))designated mental health professionals, evaluation and treatment facilities, and others as determined by the regional support network.

(((~~(16)~~))) (22) "Secretary" means the secretary of social and health services.

(((~~(17)~~))) (23) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(((~~(18)~~))) (24) "Severely emotionally disturbed child" means a child who has been determined by the regional support network to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a mentally ill or inadequate caretaker;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(((~~(19)~~))) (25) "State minimum standards" means minimum requirements established by rules adopted by the secretary and necessary to implement this chapter for: (a) Delivery of mental health services; (b) licensed service providers for the provision of mental health services; (c) residential services; and (d) community support services and resource management services.

(((~~(20)~~))) (26) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

(27) "Tribal authority," for the purposes of this section and RCW 71.24.300 only, means: The federally recognized Indian tribes and the major Indian organizations recognized by the secretary insofar as these organizations do not have a financial relationship with any regional support network that would present a conflict of interest.

Sec. 106. RCW 10.77.010 and 2004 c 157 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Admission" means acceptance based on medical necessity, of a person as a patient.

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

(3) "Conditional release" means modification of a court-ordered commitment, which may be revoked upon violation of any of its terms.

(4) ((~~"County designated mental health professional" has the same meaning as provided in RCW 71.05.020.~~

(~~5~~))) A "criminally insane" person means any person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions.

(((~~(6)~~))) (5) "Department" means the state department of social and health services.

(6) "Designated mental health professional" has the same meaning as provided in RCW 71.05.020.

(7) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter, pending evaluation.

(8) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly

treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(9) "Developmental disability" means the condition as defined in RCW 71A.10.020(3).

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

(11) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

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

(13) "History of one or more violent acts" means violent acts committed during: (a) The ten-year period of time prior to the filing of criminal charges; plus (b) the amount of time equal to time spent during the ten-year period in a mental health facility or in confinement as a result of a criminal conviction.

(14) "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.

(15) "Indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

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

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

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

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

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

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

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

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

(17) "Professional person" means:

(a) A psychiatrist licensed as a physician and surgeon in this state who has, in addition, completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology or the American osteopathic board of neurology and psychiatry;

(b) A psychologist licensed as a psychologist pursuant to chapter 18.83 RCW; or

(c) A social worker with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary.

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

(19) "Release" means legal termination of the court-ordered commitment under the provisions of this chapter.

(((~~(19)~~))) (20) "Secretary" means the secretary of the department of social and health services or his or her designee.

(((~~(20)~~))) (21) "Treatment" means any currently standardized medical or mental health procedure including medication.

(((~~(21)~~))) (22) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

(23) "Violent act" means behavior that: (a)(i) Resulted in; (ii) if completed as intended would have resulted in; or (iii) was threatened to be carried out by a person who had the intent and opportunity to carry out the threat and would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or (b) recklessly creates an immediate risk of serious physical injury to another person. As used in this subsection, "nonfatal injuries" means physical pain or injury, illness, or an impairment of physical condition. "Nonfatal injuries" shall be construed to be consistent with the definition of "bodily injury," as defined in RCW 9A.04.110.

Sec. 107. RCW 71.05.360 and 1997 c 112 s 30 are each amended to read as follows:

(1)(a) Every person involuntarily detained or committed under the provisions of this chapter shall be entitled to all the rights set forth in this chapter, which shall be prominently posted in the facility, and shall retain all rights not denied him or her under this chapter except as chapter 9.41 RCW may limit the right of a person to purchase or possess a firearm or to qualify for a concealed pistol license.

(b) No person shall be presumed incompetent as a consequence of receiving an evaluation or voluntary or involuntary treatment for a mental disorder, under this chapter or any prior laws of this state dealing with mental illness. Competency shall not be determined or withdrawn except under the provisions of chapter 10.97 or 11.88 RCW.

(c) Any person who leaves a public or private agency following evaluation or treatment for mental disorder shall be given a written statement setting forth the substance of this section.

(2) Each person involuntarily detained or committed pursuant to this chapter shall have the right to adequate care and individualized treatment.

(3) The provisions of this chapter shall not be construed to deny to any person treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(4) Persons receiving evaluation or treatment under this chapter shall be given a reasonable choice of an available physician or other professional person qualified to provide such services.

(5) Whenever any person is detained for evaluation and treatment pursuant to this chapter, both the person and, if possible, a responsible member of his or her immediate family, personal representative, guardian, or conservator, if any, shall be advised as soon as possible in writing or orally, by the officer or person taking him or her into custody or by personnel of the evaluation and treatment facility where the person is detained that unless the person is released or voluntarily admits himself or herself for treatment within seventy-two hours of the initial detention:

(a) A judicial hearing in a superior court, either by a judge or court commissioner thereof, shall be held not more than seventy-two hours after the initial detention to determine whether there is probable cause to detain the person after the seventy-two hours have expired for up to an additional fourteen days without further automatic hearing for the reason that the person is a person whose mental disorder presents a likelihood of serious harm or that the person is gravely disabled;

(b) The person has a right to communicate immediately with an attorney; has a right to have an attorney appointed to represent him or her before and at the probable cause hearing if he or she is indigent; and has the right to be told the name and address of the attorney that the mental health professional has designated pursuant to this chapter;

(c) The person has the right to remain silent and that any statement he or she makes may be used against him or her;

(d) The person has the right to present evidence and to cross-examine witnesses who testify against him or her at the probable cause hearing; and

(e) The person has the right to refuse psychiatric medications, including antipsychotic medication beginning twenty-four hours prior to the probable cause hearing.

(6) When proceedings are initiated under RCW 71.05.150 (2), (3), or (4)(b), no later than twelve hours after such person is admitted to the evaluation and treatment facility the personnel of the evaluation and treatment facility or the designated mental health professional shall serve on such person a copy of the petition for initial detention and the name, business address, and phone number of the designated attorney and shall forthwith commence service of a copy of the petition for initial detention on the designated attorney.

(7) The judicial hearing described in subsection (5) of this section is hereby authorized, and shall be held according to the provisions of subsection (5) of this section and rules promulgated by the supreme court.

(8) At the probable cause hearing the detained person shall have the following rights in addition to the rights previously specified:

(a) To present evidence on his or her behalf;

(b) To cross-examine witnesses who testify against him or her;

(c) To be proceeded against by the rules of evidence;

(d) To remain silent;

(e) To view and copy all petitions and reports in the court file.

(9) The physician-patient privilege or the psychologist-client privilege shall be deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under this chapter, the privileges shall be waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained person for purposes of a proceeding under this chapter. Upon motion by the detained person or on its own motion, the court shall examine a record or testimony sought by a petitioner to determine whether it is within the scope of the waiver.

The record maker shall not be required to testify in order to introduce medical or psychological records of the detained person so long as the requirements of RCW 5.45.020 are met except that portions of the record which contain opinions as to the detained person's mental state must be deleted from such records unless the person making such conclusions is available for cross-examination.

(10) Insofar as danger to the person or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights:

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

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

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

(d) To have visitors at reasonable times;

(e) To have reasonable access to a telephone, both to make and receive confidential calls, consistent with an effective treatment program;

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

(g) To discuss treatment plans and decisions with professional persons;

(h) Not to consent to the administration of antipsychotic medications and not to thereafter be administered antipsychotic medications unless ordered by a court under RCW 71.05.370 (as recodified by this act) or pursuant to an administrative hearing under RCW 71.05.215;

(i) Not to consent to the performance of electroconvulsant therapy or surgery, except emergency life-saving surgery, unless ordered by a court under RCW 71.05.370 (as recodified by this act);

(j) Not to have psychosurgery performed on him or her under any circumstances;

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

(11) Every person involuntarily detained shall immediately be informed of his or her right to a hearing to review the legality of his or her detention and of his or her right to counsel, by the professional person in charge of the facility providing evaluation and treatment, or his or her designee, and, when appropriate, by the court. If the person so elects, the court shall immediately appoint an attorney to assist him or her.

(12) A person challenging his or her detention or his or her attorney, shall have the right to designate and have the court appoint a reasonably available independent physician or licensed mental health professional to examine the person detained, the results of which examination may be used in the proceeding. The person shall, if he or she is financially able, bear the cost of such expert information, otherwise such expert examination shall be at public expense.

(13) Nothing contained in this chapter shall prohibit the patient from petitioning by writ of habeas corpus for release.

(14) Nothing in this chapter shall prohibit a person committed on or prior to January 1, 1974, from exercising a right available to him or her at or prior to January 1, 1974, for obtaining release from confinement.

(15) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or an active condition of supervision by the department of corrections.

NEW SECTION. **Sec. 108.** RCW 71.05.370 is recodified as a new section in chapter 71.05 RCW to be codified in proximity to RCW 71.05.215.

Sec. 109. RCW 71.05.390 and 2004 c 166 s 6, 2004 c 157 s 5, and 2004 c 33 s 2 are each reenacted and amended to read as follows:

Except as provided in this section, RCW 71.05.445, 71.05.630, 70.96A.150, or pursuant to a valid release under RCW 70.02.030, the fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the ((~~patient~~)) person, or his or her personal representative or guardian, shall be obtained before information or records may be disclosed by a professional person employed by a facility unless provided to a professional person:

(a) Employed by the facility;

(b) Who has medical responsibility for the patient's care;

(c) Who is a ((~~county~~)) designated mental health professional;

(d) Who is providing services under chapter 71.24 RCW;

(e) Who is employed by a state or local correctional facility where the person is confined or supervised; or

(f) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW.

(2) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing ((~~outpatient~~)) services to the operator of a ((~~care~~)) facility in which the patient resides or will reside.

(3)(a) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such designation.

(b) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(i) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(ii) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Such other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator.

(4) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(5)(a) For either program evaluation or research, or both: PROVIDED, That the secretary adopts rules for the conduct of the evaluation or research, or both. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, ..., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ . . . . . "

(b) Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary.

(6)(a) To the courts as necessary to the administration of this chapter or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under this chapter.

(b) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(c) Disclosure under this subsection is mandatory for the purpose of the health insurance portability and accountability act.

(7)(a) When a mental health professional is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation under RCW 71.05.150, the mental health professional shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. Such written report shall be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(b) To law enforcement officers, public health officers, or personnel of the department of corrections or the indeterminate sentence review board for persons who are the subject of the records and who are committed to the custody or supervision of the department of corrections or indeterminate sentence review board which information or records are necessary to carry out the responsibilities of their office. Except for dissemination of information released pursuant to RCW 71.05.425 and 4.24.550, regarding persons committed under this chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, the extent of information that may be released is limited as follows:

((~~(a)~~)) (i) Only the fact, place, and date of involuntary commitment, the fact and date of discharge or release, and the last known address shall be disclosed upon request;

((~~(b)~~)) (ii) The law enforcement and public health officers or personnel of the department of corrections or indeterminate sentence

review board shall be obligated to keep such information confidential in accordance with this chapter;

(((c))) (iii) Additional information shall be disclosed only after giving notice to said person and his or her counsel and upon a showing of clear, cogent, and convincing evidence that such information is necessary and that appropriate safeguards for strict confidentiality are and will be maintained. However, in the event the said person has escaped from custody, said notice prior to disclosure is not necessary and that the facility from which the person escaped shall include an evaluation as to whether the person is of danger to persons or property and has a propensity toward violence;

(((d))) (iv) Information and records shall be disclosed to the department of corrections pursuant to and in compliance with the provisions of RCW 71.05.445 for the purposes of completing presentence investigations or risk assessment reports, supervision of an incarcerated offender or offender under supervision in the community, planning for and provision of supervision of an offender, or assessment of an offender's risk to the community; and

(((e))) (v) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(8) To the attorney of the detained person.

(9) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2) and 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information shall be disclosed only after giving notice to the committed person and the person's counsel.

(10) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence.

(11) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence.

(12) To the persons designated in RCW 71.05.425 for the purposes described in that section.

(13) Civil liability and immunity for the release of information about a particular person who is committed to the department under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(14) ((~~To a patient's next of kin, guardian, or conservator, if any, in the event of death, as provided in RCW 71.05.400.~~)) Upon the death of a person, his or her next of kin, personal representative, guardian, or conservator, if any, shall be notified.

Next of kin who are of legal age and competent shall be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient shall be governed by RCW 70.02.140.

(15) To the department of health for the purposes of determining compliance with state or federal licensure, certification, or registration rules or laws. However, the information and records obtained under this subsection are exempt from public inspection and copying pursuant to chapter 42.17 RCW.

(16) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient.

(17) When a patient would otherwise be subject to the provisions of RCW 71.05.390 and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of such disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician in charge of the patient or the professional person in charge of the facility, or his or her professional designee.

Except as otherwise provided in this chapter, the uniform health care information act, chapter 70.02 RCW, applies to all records and information compiled, obtained, or maintained in the course of providing services.

(18) The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who was the subject of the proceeding except in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial ((~~or~~)), in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

Sec. 110. RCW 71.05.420 and 1990 c 3 s 113 are each amended to read as follows:

Except as provided in RCW 71.05.425, when any disclosure of information or records is made as authorized by RCW 71.05.390 ((~~through 71.05.410~~)), the physician in charge of the patient or the professional person in charge of the facility shall promptly cause to be entered into the patient's medical record the date and circumstances under which said disclosure was made, the names and relationships to the patient, if any, of the persons or agencies to whom such disclosure was made, and the information disclosed.

Sec. 111. RCW 71.05.620 and 1989 c 205 s 12 are each amended to read as follows:

((~~(1) Informed consent for disclosure of information from court or treatment records to an individual, agency, or organization must be in writing and must contain the following information:~~

~~(a) The name of the individual, agency, or organization to which the disclosure is to be made;~~

~~(b) The name of the individual whose treatment record is being disclosed;~~

~~(c) The purpose or need for the disclosure;~~

~~(d) The specific type of information to be disclosed;~~

~~(e) The time period during which the consent is effective;~~

~~(f) The date on which the consent is signed; and~~

~~(g) The signature of the individual or person legally authorized to give consent for the individual.~~

~~(2)~~)) The files and records of court proceedings under this chapter and chapters ((~~71.05~~)) 70.96A, 71.34, and 70.-- (sections 202 through 216 of this act) RCW shall be closed but shall be accessible to any ((~~individual~~)) person who is the subject of a petition and to the ((~~individual's~~)) person's attorney, guardian ad litem, resource management services, or service providers authorized to receive such information by resource management services.

Sec. 112. RCW 71.05.630 and 2000 c 75 s 5 are each amended to read as follows:

(1) Except as otherwise provided by law, all treatment records shall remain confidential((~~. Treatment records~~)) and may be released only to the persons designated in this section, or to other persons designated in an informed written consent of the patient.

(2) Treatment records of ((~~an individual~~)) a person may be released without informed written consent in the following circumstances:

(a) To ((~~an individual~~)) a person, organization, or agency as necessary for management or financial audits, or program monitoring and evaluation. Information obtained under this subsection shall remain confidential and may not be used in a manner that discloses the name or other identifying information about the ((~~individual~~)) person whose records are being released.

(b) To the department, the director of regional support networks, or a qualified staff member designated by the director only when necessary to be used for billing or collection purposes. The information shall remain confidential.

(c) For purposes of research as permitted in chapter 42.48 RCW.

(d) Pursuant to lawful order of a court.

(e) To qualified staff members of the department, to the director of regional support networks, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility. The information shall remain confidential.

(f) Within the treatment facility where the patient is receiving treatment, confidential information may be disclosed to ((~~individuals~~)) persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties.

(g) Within the department as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of ((~~individuals~~)) persons who are under the supervision of the department.

(h) To a licensed physician who has determined that the life or health of the ((~~individual~~)) person is in danger and that treatment without the information contained in the treatment records could be injurious to the patient's health. Disclosure shall be limited to the portions of the records necessary to meet the medical emergency.

(i) To a facility that is to receive ((~~an individual~~)) a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the ((~~individual~~)) person from one treatment facility to another. The release of records under this subsection shall be limited to the treatment records required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record.

(j) Notwithstanding the provisions of RCW 71.05.390(7), to a correctional facility or a corrections officer who is responsible for the supervision of ((~~an individual~~)) a person who is receiving inpatient or outpatient evaluation or treatment. Except as provided in RCW 71.05.445 and 71.34.225, release of records under this section is limited to:

(i) An evaluation report provided pursuant to a written supervision plan.

(ii) The discharge summary, including a record or summary of all somatic treatments, at the termination of any treatment provided as part of the supervision plan.

(iii) When ((~~an individual~~)) a person is returned from a treatment facility to a correctional facility, the information provided under (j)(iv) of this subsection.

(iv) Any information necessary to establish or implement changes in the ((~~individual's~~)) person's treatment plan or the level or kind of supervision as determined by resource management services. In cases involving a person transferred back to a correctional facility, disclosure shall be made to clinical staff only.

(k) To the ((~~individual's~~)) person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW.

(l) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental ((~~illness~~)) disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information shall notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information.

(3) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for ((~~alcoholism or drug~~)) chemical dependency, the department may restrict the release of the information as necessary to comply with federal law and regulations.

Sec. 113. RCW 71.05.640 and 2000 c 94 s 11 are each amended to read as follows:

(1) Procedures shall be established by resource management services to provide reasonable and timely access to individual treatment records. However, access may not be denied at any time to records of all medications and somatic treatments received by the ((~~individual~~)) person.

(2) Following discharge, the ((~~individual~~)) person shall have a right to a complete record of all medications and somatic treatments prescribed during evaluation, admission, or commitment and to a copy of the discharge summary prepared at the time of his or her discharge. A reasonable and uniform charge for reproduction may be assessed.

(3) Treatment records may be modified prior to inspection to protect the confidentiality of other patients or the names of any other persons referred to in the record who gave information on the condition that his or her identity remain confidential. Entire documents may not be withheld to protect such confidentiality.

(4) At the time of discharge all ((~~individuals~~)) persons shall be informed by resource management services of their rights as provided in RCW ((~~71.05.610~~)) 71.05.390 and 71.05.620 through 71.05.690.

Sec. 114. RCW 71.05.660 and 1989 c 205 s 16 are each amended to read as follows:

Nothing in this chapter ((~~205, Laws of 1989~~)) or chapter 70.96A, 71.05, 71.34, or 70.-- (sections 202 through 216 of this act) RCW shall be construed to interfere with communications between physicians or psychologists and patients and attorneys and clients.

NEW SECTION. **Sec. 115.** A new section is added to chapter 71.05 RCW to read as follows:

A petition for commitment under this chapter may be joined with a petition for commitment under chapter 70.96A RCW.

PART II
PILOT PROGRAMS

NEW SECTION. **Sec. 201.** Sections 202 through 216 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec. 202.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Admission" or "admit" means a decision by a physician that a person should be examined or treated as a patient in a hospital, an evaluation and treatment facility, or other inpatient facility, or a decision by a professional person in charge or his or her designee that a person should be detained as a patient for evaluation and treatment in a secure detoxification facility or other certified chemical dependency provider.

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

(3) "Approved treatment program" means a discrete program of chemical dependency treatment provided by a treatment program certified by the department as meeting standards adopted under chapter 70.96A RCW.

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

(5) "Chemical dependency" means:

(a) Alcoholism;

(b) Drug addiction; or

(c) Dependence on alcohol and one or more other psychoactive chemicals, as the context requires.

(6) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

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

(8) "Conditional release" means a revocable modification of a commitment that may be revoked upon violation of any of its terms.

(9) "Custody" means involuntary detention under either chapter 71.05 or 70.96A RCW or this chapter, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

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

(11) "Designated chemical dependency specialist" or "specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in RCW 70.96A.140 and this chapter, and qualified to do so by meeting standards adopted by the department.

(12) "Designated crisis responder" means a person designated by the county or regional support network to perform the duties specified in this chapter.

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

(14) "Detention" or "detain" means the lawful confinement of a person under this chapter, or chapter 70.96A or 71.05 RCW.

(15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with individuals with developmental disabilities and is a psychiatrist, psychologist, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(16) "Developmental disability" means that condition defined in RCW 71A.10.020.

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

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

(19) "Facility" means either an evaluation and treatment facility or a secure detoxification facility.

(20) "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals:

(a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or

(b) Manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(21) "History of one or more violent acts" refers to the period of time ten years before the filing of a petition under this chapter, or chapter 70.96A or 71.05 RCW, excluding any time spent, but not any violent acts committed, in a mental health facility or a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction.

(22) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

(23) "Judicial commitment" means a commitment by a court under this chapter.

(24) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(25) "Likelihood of serious harm" means:

(a) A substantial risk that:

(i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;

(ii) Physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or

(iii) Physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or

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

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

(27) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary under the authority of chapter 71.05 RCW.

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

(29) "Person in charge" means a physician or chemical dependency counselor as defined in rule by the department, who is empowered by a certified treatment program with authority to make assessment, admission, continuing care, and discharge decisions on behalf of the certified program.

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

(31) "Professional person" means a mental health professional or chemical dependency professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter.

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

(33) "Psychologist" means a person who has been licensed as a psychologist under chapter 18.83 RCW.

(34) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved treatment program that is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill and/or chemically dependent, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

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

(36) "Release" means legal termination of the commitment under chapter 70.96A or 71.05 RCW or this chapter.

(37) "Secretary" means the secretary of the department or the secretary's designee.

(38) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that serves the purpose of providing evaluation and assessment, and acute and/or subacute detoxification services for intoxicated persons and includes security measures sufficient to protect the patients, staff, and community.

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

(40) "Treatment records" means registration records and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

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

NEW SECTION. **Sec. 203.** (1) The secretary, after consulting with the Washington state association of counties, shall select and contract with regional support networks or counties to provide two integrated crisis response and involuntary treatment pilot programs for adults and shall allocate resources for both integrated services and secure detoxification services in the pilot areas. In selecting the two regional support networks or counties, the secretary shall endeavor to site one in an urban and one in a rural regional support network or county; and to site them in counties other than those selected pursuant to section 220 of this act, to the extent necessary to facilitate evaluation of pilot project results.

(2) The regional support networks or counties shall implement the pilot programs by providing integrated crisis response and involuntary treatment to persons with a chemical dependency, a mental disorder, or both, consistent with this chapter. The pilot programs shall:

(a) Combine the crisis responder functions of a designated mental health professional under chapter 71.05 RCW and a designated chemical dependency specialist under chapter 70.96A RCW by establishing a new designated crisis responder who is

authorized to conduct investigations and detain persons up to seventy-two hours to the proper facility;

(b) Provide training to the crisis responders as required by the department;

(c) Provide sufficient staff and resources to ensure availability of an adequate number of crisis responders twenty-four hours a day, seven days a week;

(d) Provide the administrative and court-related staff, resources, and processes necessary to facilitate the legal requirements of the initial detention and the commitment hearings for persons with a chemical dependency;

(e) Participate in the evaluation and report to assess the outcomes of the pilot programs including providing data and information as requested;

(f) Provide the other services necessary to the implementation of the pilot programs, consistent with this chapter as determined by the secretary in contract; and

(g) Collaborate with the department of corrections where persons detained or committed are also subject to supervision by the department of corrections.

(3) The pilot programs established by this section shall begin providing services by March 1, 2006.

NEW SECTION. **Sec. 204.** To qualify as a designated crisis responder, a person must have received chemical dependency training as determined by the department and be a:

(1) Psychiatrist, psychologist, psychiatric nurse, or social worker;

(2) Person with a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university and who have, in addition, at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, such experience gained under the direction of a mental health professional;

(3) Person who meets the waiver criteria of RCW 71.24.260, which waiver was granted before 1986;

(4) Person who had an approved waiver to perform the duties of a mental health professional that was requested by the regional support network and granted by the department before July 1, 2001; or

(5) Person who has been granted a time-limited exception of the minimum requirements of a mental health professional by the department consistent with rules adopted by the secretary.

NEW SECTION. **Sec. 205.** In addition to the provisions of this chapter, a designated crisis responder has all the powers and duties of a designated mental health professional as well as the powers and duties of a designated chemical dependency specialist under RCW 70.96A.120.

NEW SECTION. **Sec. 206.** (1)(a) When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, chemical dependency disorder, or both, presents a likelihood of serious harm or is gravely disabled, the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at either an evaluation and treatment facility, a detoxification facility, or other certified chemical dependency provider.

(b)(i)(A) Whenever it appears, by petition for initial detention, to the satisfaction of a judge of the superior court that a person presents as a result of a mental disorder, a likelihood of serious harm, or is gravely disabled, and that the person has refused or failed to accept appropriate evaluation and treatment voluntarily, the judge may issue an order requiring the person to appear within twenty-four hours after service of the order at a designated evaluation and treatment facility for not more than a seventy-two hour evaluation and treatment period; or

(B) Whenever it appears, by petition for initial detention, to the satisfaction of a judge of the superior court, district court, or other court permitted by court rule, that a person presents as a result of a chemical dependency, a likelihood of serious harm, or is gravely disabled, and that the person has refused or failed to accept appropriate evaluation and treatment voluntarily, the judge may issue an order requiring the person to appear within twenty-four hours after service of the order at a secure detoxification facility or other certified chemical dependency provider for not more than a seventy-two hour evaluation and treatment period.

(ii) The order issued under this subsection (1)(b) shall state the address of the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider to which the person is to report; whether the required seventy-two hour evaluation and treatment services may be delivered on an outpatient or inpatient basis; and that if the person named in the order fails to appear at the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider at or before the date and time stated in the order, the person may be involuntarily taken into custody for evaluation and treatment. The order shall also designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(c) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order to appear, together with a notice of rights and a petition for initial detention. After service on the person, the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility or secure detoxification facility and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider. The person shall be permitted to remain in his or her home or other place of his or her choosing before the time of evaluation and shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other person accompanying the person may be present during the admission evaluation. The facility may exclude the person if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(d) If the person ordered to appear does appear on or before the date and time specified, the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider may admit the person as required by subsection (3) of this

section or may provide treatment on an outpatient basis. If the person ordered to appear fails to appear on or before the date and time specified, the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider shall immediately notify the designated crisis responder who may notify a peace officer to take the person or cause the person to be taken into custody and placed in an evaluation and treatment facility, a secure detoxification facility, or other certified chemical dependency provider. Should the designated crisis responder notify a peace officer authorizing the officer to take a person into custody under this subsection, the designated crisis responder shall file with the court a copy of the authorization and a notice of detention. At the time the person is taken into custody there shall commence to be served on the person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of detention, a notice of rights, and a petition for initial detention.

(2) If a designated crisis responder receives information alleging that a person, as the result of:

(a) A mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in this chapter; or

(b) Chemical dependency, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take the person, or cause by oral or written order the person to be taken into emergency custody in a secure detoxification facility for not more than seventy-two hours as described in this chapter.

(3) If the designated crisis responder petitions for detention of a person whose actions constitute a likelihood of serious harm, or who is gravely disabled, the evaluation and treatment facility, the secure detoxification facility, or other certified chemical dependency provider providing seventy-two hour evaluation and treatment must immediately accept on a provisional basis the petition and the person. The evaluation and treatment facility, the secure detoxification facility, or other certified chemical dependency provider shall then evaluate the person's condition and admit, detain, transfer, or discharge such person in accordance with this chapter. The facility shall notify in writing the court and the designated crisis responder of the date and time of the initial detention of each person involuntarily detained so that a probable cause hearing will be held no later than seventy-two hours after detention.

(4) A peace officer may, without prior notice of the proceedings provided for in subsection (1) of this section, take or cause the person to be taken into custody and immediately delivered to an evaluation and treatment facility, secure detoxification facility, other certified chemical dependency treatment provider only pursuant to subsections (1)(d) and (2) of this section.

(5) Nothing in this chapter limits the power of a peace officer to take a person into custody and immediately deliver the person to the emergency department of a local hospital or to a detoxification facility.

NEW SECTION. **Sec. 207.** (1) A person or public or private entity employing a person is not civilly or criminally liable for performing duties under this chapter if the duties were performed in good faith and without gross negligence.

(2) This section does not relieve a person from giving the required notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn or to take reasonable precautions to provide protection from violent behavior where the patient has communicated an actual threat of physical violence against a reasonably identifiable victim or victims. The duty to warn or to take reasonable precautions to provide protection from violent behavior is discharged if reasonable efforts are made to communicate the threat to the victim or victims and to law enforcement personnel.

NEW SECTION. **Sec. 208.** If the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider admits the person, it may detain the person for evaluation and treatment for a period not to exceed seventy-two hours from the time of acceptance. The computation of the seventy-two hour period excludes Saturdays, Sundays, and holidays.

NEW SECTION. **Sec. 209.** Whenever any person is detained for evaluation and treatment for a mental disorder under section 206 of this act, chapter 71.05 RCW applies.

NEW SECTION. **Sec. 210.** (1) A person detained for seventy-two hour evaluation and treatment under section 206 of this act or RCW 70.96A.120 may be detained for not more than fourteen additional days of involuntary chemical dependency treatment if there are beds available at the secure detoxification facility and the following conditions are met:

(a) The professional person in charge of the agency or facility or the person's designee providing evaluation and treatment services in a secure detoxification facility has assessed the person's condition and finds that the condition is caused by chemical dependency and either results in a likelihood of serious harm or in the detained person being gravely disabled, and the professional person or his or her designee is prepared to testify those conditions are met;

(b) The person has been advised of the need for voluntary treatment and the professional person in charge of the agency or facility or his or her designee has evidence that he or she has not in good faith volunteered for treatment; and

(c) The professional person in charge of the agency or facility or the person's designee has filed a petition for fourteen-day involuntary detention with the superior court, district court, or other court permitted by court rule. The petition must be signed by the chemical dependency professional who has examined the person.

(2) The petition under subsection (1)(c) of this section shall be accompanied by a certificate of a licensed physician who has examined the person, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the licensed physician's findings in support of the allegations of the petition. A physician employed by the petitioning program or the department is eligible to be the certifying physician.

(3) The petition shall state facts that support the finding that the person, as a result of chemical dependency, presents a likelihood of serious harm or is gravely disabled, and that there are no less restrictive alternatives to detention in the best interest of the person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate.

(4) A copy of the petition shall be served on the detained person, his or her attorney, and his or her guardian or conservator, if any, before the probable cause hearing.

(5)(a) The court shall inform the person whose commitment is sought of his or her right to contest the petition, be represented by counsel at every stage of any proceedings relating to his or her commitment, and have counsel appointed by the court or provided by the court, if he or she wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for him or her regardless of his or her wishes. The person shall, if he or she is financially able, bear the costs of such legal service; otherwise such legal service shall be at public expense. The person whose commitment is sought shall be informed of his or her right to be examined by a licensed physician of his or her choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall appoint a reasonably available licensed physician designated by the person.

(b) At the conclusion of the probable cause hearing, if the court finds by a preponderance of the evidence that the person, as the result of chemical dependency, presents a likelihood of serious harm or is gravely disabled and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interest of such person or others, the court shall order that the person be detained for involuntary chemical dependency treatment not to exceed fourteen days in a secure detoxification facility.

NEW SECTION. **Sec. 211.** If a person is detained for additional treatment beyond fourteen days under section 210 of this act, the professional staff of the agency or facility may petition for additional treatment under RCW 70.96A.140.

NEW SECTION. **Sec. 212.** The prosecuting attorney of the county in which an action under this chapter is taken must represent the petitioner in judicial proceedings under this chapter for the involuntary chemical dependency treatment of a person, including any judicial proceeding where the person sought to be treated for chemical dependency challenges the action.

NEW SECTION. **Sec. 213.** (1) Every person involuntarily detained or committed under this chapter as a result of a mental disorder is entitled to all the rights set forth in this chapter and in chapter 71.05 RCW, and retains all rights not denied him or her under this chapter or chapter 71.05 RCW.

(2) Every person involuntarily detained or committed under this chapter as a result of a chemical dependency is entitled to all the rights set forth in this chapter and chapter 70.96A RCW, and retains all rights not denied him or her under this chapter or chapter 70.96A RCW.

NEW SECTION. **Sec. 214.** (1) When a designated crisis responder is notified by a jail that a defendant or offender who was subject to a discharge review under RCW 71.05.232 is to be released to the community, the designated crisis responder shall evaluate the person within seventy-two hours of release.

(2) When an offender is under court-ordered treatment in the community and the supervision of the department of corrections, and the treatment provider becomes aware that the person is in violation of the terms of the court order, the treatment provider shall notify the designated crisis responder of the violation and request an evaluation for purposes of revocation of the less restrictive alternative.

(3) When a designated crisis responder becomes aware that an offender who is under court-ordered treatment in the community and the supervision of the department of corrections is in violation of a treatment order or a condition of supervision that relates to public safety, or the designated crisis responder detains a person under this chapter, the designated crisis responder shall notify the person's treatment provider and the department of corrections.

(4) When an offender who is confined in a state correctional facility or is under supervision of the department of corrections in the community is subject to a petition for involuntary treatment under this chapter, the petitioner shall notify the department of corrections and the department of corrections shall provide documentation of its risk assessment or other concerns to the petitioner and the court if the department of corrections classified the offender as a high risk or high needs offender.

(5) Nothing in this section creates a duty on any treatment provider or designated crisis responder to provide offender supervision.

NEW SECTION. **Sec. 215.** The secretary may adopt rules to implement this chapter.

NEW SECTION. **Sec. 216.** The provisions of RCW 71.05.550 apply to this chapter.

NEW SECTION. **Sec. 217.** (1) The Washington state institute for public policy shall evaluate the pilot programs and make a preliminary report to appropriate committees of the legislature by December 1, 2007, and a final report by September 30, 2008.

(2) The evaluation of the pilot programs shall include:

(a) Whether the designated crisis responder pilot program:

(i) Has increased efficiency of evaluation and treatment of persons involuntarily detained for seventy-two hours;

(ii) Is cost-effective;

(iii) Results in better outcomes for persons involuntarily detained;

(iv) Increased the effectiveness of the crisis response system in the pilot catchment areas;

(b) The effectiveness of providing a single chapter in the Revised Code of Washington to address initial detention of persons with mental disorders or chemical dependency, in crisis response situations and the likelihood of effectiveness of providing a single, comprehensive involuntary treatment act.

(3) The reports shall consider the impact of the pilot programs on the existing mental health system and on the persons served by the system.

Sec. 218. RCW 71.05.550 and 1973 1st ex.s. c 142 s 60 are each amended to read as follows:

The department of social and health services, in planning and providing funding to counties pursuant to chapter 71.24 RCW, shall recognize the financial necessities imposed upon counties by implementation of this chapter and chapter 70.-- RCW (sections 202 through 216 of this act), and shall consider needs, if any, for additional community mental health services and facilities and reduction in commitments to state hospitals for the mentally ill accomplished by individual counties, in planning and providing such funding. The state shall provide financial assistance to the counties to enable the counties to meet all increased costs, if any, to the counties resulting from their administration of the provisions of chapter 142, Laws of 1973 1st ex. sess.

NEW SECTION. **Sec. 219.** Sections 202 through 216 of this act expire July 1, 2008.

NEW SECTION. **Sec. 220.** A new section is added to chapter 70.96A RCW to read as follows:

(1) The secretary shall select and contract with counties to provide intensive case management for chemically dependent persons with histories of high utilization of crisis services at two sites. In selecting the two sites, the secretary shall endeavor to site one in an urban county, and one in a rural county; and to site them in counties other than those selected pursuant to section 203 of this act, to the extent necessary to facilitate evaluation of pilot project results.

(2) The contracted sites shall implement the pilot programs by providing intensive case management to persons with a primary chemical dependency diagnosis or dual primary chemical dependency and mental health diagnoses, through the employment of chemical dependency case managers. The chemical dependency case managers shall:

(a) Be trained in and use the integrated, comprehensive screening and assessment process adopted under section 601 of this act;

(b) Reduce the use of crisis medical, chemical dependency and mental health services, including but not limited to, emergency room admissions, hospitalizations, detoxification programs, inpatient psychiatric admissions, involuntary treatment petitions, emergency medical services, and ambulance services;

(c) Reduce the use of emergency first responder services including police, fire, emergency medical, and ambulance services;

(d) Reduce the number of criminal justice interventions including arrests, violations of conditions of supervision, bookings, jail days, prison sanction day for violations, court appearances, and prosecutor and defense costs;

(e) Where appropriate and available, work with therapeutic courts including drug courts and mental health courts to maximize the outcomes for the individual and reduce the likelihood of reoffense;

(f) Coordinate with local offices of the economic services administration to assist the person in accessing and remaining enrolled in those programs to which the person may be entitled;

(g) Where appropriate and available, coordinate with primary care and other programs operated through the federal government including federally qualified health centers, Indian health programs, and veterans' health programs for which the person is eligible to reduce duplication of services and conflicts in case approach;

(h) Where appropriate, advocate for the client's needs to assist the person in achieving and maintaining stability and progress toward recovery;

(i) Document the numbers of persons with co-occurring mental and substance abuse disorders and the point of determination of the co-occurring disorder by quadrant of intensity of need; and

(j) Where a program participant is under supervision by the department of corrections, collaborate with the department of corrections to maximize treatment outcomes and reduce the likelihood of reoffense.

(3) The pilot programs established by this section shall begin providing services by March 1, 2006.

(4) This section expires June 30, 2008.

PART III
TREATMENT GAP

NEW SECTION. **Sec. 301.** A new section is added to chapter 70.96A RCW to read as follows:

(1) The division of alcohol and substance abuse shall increase its capacity to serve adults who meet chemical dependency treatment criteria and who are enrolled in medicaid as follows:

(a) In fiscal year 2006, the division of alcohol and substance abuse shall serve forty percent of the calculated need; and

(b) In fiscal year 2007, the division of alcohol and substance abuse shall serve sixty percent of the calculated need.

(2) The division of alcohol and substance abuse shall increase its capacity to serve minors who have passed their twelfth birthday and who are not yet eighteen, who are under two hundred percent of the federal poverty level as follows:

(a) In fiscal year 2006, the division of alcohol and substance abuse shall serve forty percent of the calculated need; and

(b) In fiscal year 2007, the division of alcohol and substance abuse shall serve sixty percent of the calculated need.

(3) For purposes of this section, "calculated need" means the percentage of the population under two hundred percent of the federal poverty level in need of chemical dependency services as determined in the 2003 Washington state needs assessment study.

NEW SECTION. **Sec. 302.** A new section is added to chapter 70.96A RCW to read as follows:

(1) Not later than January 1, 2007, all persons providing treatment under this chapter shall also implement the integrated comprehensive screening and assessment process for chemical dependency and mental disorders adopted pursuant to section 601 of this act and shall document the numbers of clients with co-occurring mental and substance abuse disorders based on a quadrant system of low and high needs.

(2) Treatment providers contracted to provide treatment under this chapter who fail to implement the integrated comprehensive screening and assessment process for chemical dependency and mental disorders by July 1, 2007, are subject to contractual penalties established under section 601 of this act.

NEW SECTION. **Sec. 303.** A new section is added to chapter 13.34 RCW to read as follows:

The department of social and health services and the department of health shall develop and expand comprehensive services for drug-affected and alcohol-affected mothers and infants. Subject to funds appropriated for this purpose, the expansion shall be in evidence-based, research-based, or consensus-based practices, as those terms are defined in section 603 of this act, and shall expand capacity in underserved regions of the state.

NEW SECTION. **Sec. 304.** A new section is added to chapter 70.96A RCW to read as follows:

A petition for commitment under this chapter may be joined with a petition for commitment under chapter 71.05 RCW.

NEW SECTION. **Sec. 305.** A new section is added to chapter 70.96A RCW to read as follows:

(1) The department of social and health services shall contract for chemical dependency specialist services at each division of children and family services office to enhance the timeliness and quality of child protective services assessments and to better connect families to needed treatment services.

(2) The chemical dependency specialist's duties may include, but are not limited to: Conducting on-site chemical dependency screening and assessment, facilitating progress reports to department social workers, in-service training of department social workers and staff on substance abuse issues, referring clients from the department

to treatment providers, and providing consultation on cases to department social workers.

(3) The department of social and health services shall provide training in and ensure that each case-carrying social worker is trained in uniform screening for mental health and chemical dependency.

PART IV
RESOURCES

NEW SECTION. **Sec. 401.** Sections 402 through 425 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec. 402.** The legislature finds that there are persons with mental disorders, including organic or traumatic brain disorders, and combinations of mental disorders with other medical conditions or behavior histories that result in behavioral and security issues that make these persons ineligible for, or unsuccessful in, existing types of licensed facilities, including adult residential rehabilitation centers, boarding homes, adult family homes, group homes, and skilled nursing facilities. The legislature also finds that many of these persons have been treated on repeated occasions in inappropriate acute care facilities and released without an appropriate placement or have been treated or detained for extended periods in inappropriate settings including state hospitals and correctional facilities. The legislature further finds that some of these persons present complex safety and treatment issues that require security measures that cannot be instituted under most facility licenses or supported housing programs. These include the ability to detain persons under involuntary treatment orders or administer court ordered medications.

Consequently, the legislature intends, to the extent of available funds, to establish a new type of facility licensed by the department of social and health services as an enhanced services facility with standards that will provide a safe, secure treatment environment for a limited population of persons who are not appropriately served in other facilities or programs. The legislature also finds that enhanced services facilities may need to specialize in order to effectively care for a particular segment of the identified population.

An enhanced services facility may only serve individuals that meet the criteria specified in section 405 of this act.

NEW SECTION. **Sec. 403.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

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

(3) "Chemical dependency" means alcoholism, drug addiction, or dependence on alcohol and one or more other psychoactive chemicals, as the context requires and as those terms are defined in chapter 70.96A RCW.

(4) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

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

(6) "Conditional release" means a modification of a commitment that may be revoked upon violation of any of its terms.

(7) "Custody" means involuntary detention under chapter 71.05 or 70.96A RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

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

(9) "Designated responder" means a designated mental health professional, a designated chemical dependency specialist, or a designated crisis responder as those terms are defined in chapter 70.96A, 71.05, or 70.-- (sections 202 through 216 of this act) RCW.

(10) "Detention" or "detain" means the lawful confinement of an individual under chapter 70.96A or 71.05 RCW.

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

(12) "Enhanced services facility" means a facility that provides treatment and services to persons for whom acute inpatient treatment is not medically necessary and who have been determined by the department to be inappropriate for placement in other licensed facilities due to the complex needs that result in behavioral and security issues.

(13) "Expanded community services program" means a nonsecure program of enhanced behavioral and residential support provided to long-term and residential care providers serving specifically eligible clients who would otherwise be at risk for hospitalization at state hospital geriatric units.

(14) "Facility" means an enhanced services facility.

(15) "Gravely disabled" means a condition in which an individual, as a result of a mental disorder, as a result of the use of alcohol or other psychoactive chemicals, or both:

(a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or

(b) Manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(16) "History of one or more violent acts" refers to the period of time ten years before the filing of a petition under this chapter, or chapter 70.96A or 71.05 RCW, excluding any time spent, but not any violent acts committed, in a mental health facility or a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction.

(17) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(18) "Likelihood of serious harm" means:

(a) A substantial risk that:

(i) Physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;

(ii) Physical harm will be inflicted by an individual upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or

(iii) Physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or

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

(19) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions.

(20) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary under the authority of chapter 71.05 RCW.

(21) "Professional person" means a mental health professional and also means a physician, registered nurse, and such others as may be defined in rules adopted by the secretary pursuant to the provisions of this chapter.

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

(23) "Psychologist" means a person who has been licensed as a psychologist under chapter 18.83 RCW.

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

(25) "Release" means legal termination of the commitment under chapter 70.96A or 71.05 RCW.

(26) "Resident" means a person admitted to an enhanced services facility.

(27) "Secretary" means the secretary of the department or the secretary's designee.

(28) "Significant change" means:

(a) A deterioration in a resident's physical, mental, or psychosocial condition that has caused or is likely to cause clinical complications or life-threatening conditions; or

(b) An improvement in the resident's physical, mental, or psychosocial condition that may make the resident eligible for release or for treatment in a less intensive or less secure setting.

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

(30) "Treatment" means the broad range of emergency, detoxification, residential, inpatient, and outpatient services and care, including diagnostic evaluation, mental health or chemical dependency education and counseling, medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, which may be extended to persons with mental disorders, chemical dependency disorders, or both, and their families.

(31) "Treatment records" include registration and all other records concerning individuals who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by an individual providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

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

NEW SECTION. **Sec. 404.** A facility shall honor an advance directive that was validly executed pursuant to chapter 70.122 RCW and a mental health advance directive that was validly executed pursuant to chapter 71.32 RCW.

NEW SECTION. **Sec. 405.** A person, eighteen years old or older, may be admitted to an enhanced services facility if he or she meets the criteria in subsections (1) through (3) of this section:

(1) The person requires: (a) Daily care by or under the supervision of a mental health professional, chemical dependency professional, or nurse; or (b) assistance with three or more activities of daily living; and

(2) The person has: (a) A mental disorder, chemical dependency disorder, or both; (b) an organic or traumatic brain injury; or (c) a cognitive impairment that results in symptoms or behaviors requiring supervision and facility services;

(3) The person has two or more of the following:

(a) Self-endangering behaviors that are frequent or difficult to manage;

(b) Aggressive, threatening, or assaultive behaviors that create a risk to the health or safety of other residents or staff, or a significant risk to property and these behaviors are frequent or difficult to manage;

(c) Intrusive behaviors that put residents or staff at risk;

(d) Complex medication needs and those needs include psychotropic medications;

(e) A history of or likelihood of unsuccessful placements in either a licensed facility or other state facility or a history of rejected applications for admission to other licensed facilities based on the person's behaviors, history, or security needs;

(f) A history of frequent or protracted mental health hospitalizations;

(g) A history of offenses against a person or felony offenses that created substantial damage to property.

NEW SECTION. **Sec. 406.** (1)(a) Every person who is a resident of an enhanced services facility shall be entitled to all the rights set forth in this chapter, and chapters 71.05 and 70.96A RCW, and shall retain all rights not denied him or her under these chapters.

(b) No person shall be presumed incompetent as a consequence of receiving an evaluation or voluntary or involuntary treatment for a mental disorder, chemical dependency disorder, or both, under this chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this state dealing with mental illness. Competency shall not be determined or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

(c) At the time of his or her treatment planning meeting, every resident of an enhanced services facility shall be given a written statement setting forth the substance of this section. The department shall by rule develop a statement and process for informing residents of their rights in a manner that is likely to be understood by the resident.

(2) Every resident of an enhanced services facility shall have the right to adequate care and individualized treatment.

(3) The provisions of this chapter shall not be construed to deny to any person treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(4) Persons receiving evaluation or treatment under this chapter shall be given a reasonable choice of an available physician or other professional person qualified to provide such services.

(5) The physician-patient privilege or the psychologist-client privilege shall be deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to

other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the privileges shall be waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

(6) Insofar as danger to the person or others is not created, each resident of an enhanced services facility shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

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

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

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

(d) To have visitors at reasonable times;

(e) To have reasonable access to a telephone, both to make and receive confidential calls, consistent with an effective treatment program;

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

(g) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to RCW 71.05.215 or 71.05.370 (as recodified by this act), or the performance of electroconvulsant therapy, or surgery, except emergency life-saving surgery, unless ordered by a court under RCW 71.05.370 (as recodified by this act);

(h) To discuss and actively participate in treatment plans and decisions with professional persons;

(i) Not to have psychosurgery performed on him or her under any circumstances;

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

(k) To complain about rights violations or conditions and request the assistance of a mental health ombudsman or representative of Washington protection and advocacy. The facility may not prohibit or interfere with a resident's decision to consult with an advocate of his or her choice.

(7) Nothing contained in this chapter shall prohibit a resident from petitioning by writ of habeas corpus for release.

(8) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or active supervision by the department of corrections.

(9) A person has a right to refuse placement, except where subject to commitment, in an enhanced services facility. No person shall be denied other department services solely on the grounds that he or she has made such a refusal.

(10) A person has a right to appeal the decision of the department that he or she is eligible for placement at an enhanced services facility, and shall be given notice of the right to appeal in a format that is accessible to the person with instructions regarding what to do if the person wants to appeal.

NEW SECTION. **Sec. 407.** A person who is gravely disabled or presents a likelihood of serious harm as a result of a mental or chemical dependency disorder or co-occurring mental and chemical dependency disorders has a right to refuse antipsychotic medication. Antipsychotic medication may be administered over the person's objections only pursuant to RCW 71.05.215 or 71.05.370 (as recodified by this act).

NEW SECTION. **Sec. 408.** (1)(a) The department shall not license an enhanced services facility that serves any residents under sixty-five years of age for a capacity to exceed sixteen residents.

(b) The department may contract for services for the operation of enhanced services facilities only to the extent that funds are specifically provided for that purpose.

(2) The facility shall provide an appropriate level of security for the characteristics, behaviors, and legal status of the residents.

(3) An enhanced services facility may hold only one license but, to the extent permitted under state and federal law and medicaid requirements, a facility may be located in the same building as another licensed facility, provided that:

(a) The enhanced services facility is in a location that is totally separate and discrete from the other licensed facility; and

(b) The two facilities maintain separate staffing, unless an exception to this is permitted by the department in rule.

(4) Nursing homes under chapter 18.51 RCW, boarding homes under chapter 18.20 RCW, or adult family homes under chapter 70.128 RCW, that become licensed as facilities under this chapter shall be deemed to meet the applicable state and local rules, regulations, permits, and code requirements. All other facilities are required to meet all applicable state and local rules, regulations, permits, and code requirements.

NEW SECTION. **Sec. 409.** (1) The enhanced services facility shall complete a comprehensive assessment for each resident within fourteen days of admission, and the assessments shall be repeated upon a significant change in the resident's condition or, at a minimum, every one hundred eighty days if there is no significant change in condition.

(2) The enhanced services facility shall develop an individualized treatment plan for each resident based on the comprehensive assessment and any other information in the person's record. The plan shall be updated as necessary, and shall include a plan for appropriate transfer or discharge and reintegration into the community. Where the person is under the supervision of the department of corrections, the facility shall collaborate with the department of corrections to maximize treatment outcomes and reduce the likelihood of reoffense.

(3) The plan shall maximize the opportunities for independence, recovery, employment, the resident's participation in treatment decisions, and collaboration with peer-supported services, and provide for care and treatment in the least restrictive manner appropriate to the individual resident, and, where relevant, to any court orders with which the resident must comply.

NEW SECTION. **Sec. 410.** (1) An enhanced services facility must have sufficient numbers of staff with the appropriate credentials and training to provide residents with the appropriate care and treatment:

(a) Mental health treatment;

(b) Medication services;

(c) Assistance with the activities of daily living;

(d) Medical or habilitative treatment;

(e) Dietary services;

(f) Security; and

(g) Chemical dependency treatment.

(2) Where an enhanced services facility specializes in medically fragile persons with mental disorders, the on-site staff must include

at least one licensed nurse twenty-four hours per day. The nurse must be a registered nurse for at least sixteen hours per day. If the nurse is not a registered nurse, a registered nurse or a doctor must be on-call during the remaining eight hours.

(3) Any employee or other individual who will have unsupervised access to vulnerable adults must successfully pass a background inquiry check.

NEW SECTION. **Sec. 411.** This chapter does not apply to the following residential facilities:

(1) Nursing homes licensed under chapter 18.51 RCW;

(2) Boarding homes licensed under chapter 18.20 RCW;

(3) Adult family homes licensed under chapter 70.128 RCW;

(4) Facilities approved and certified under chapter 71A.22 RCW;

(5) Residential treatment facilities licensed under chapter 71.12 RCW; and

(6) Hospitals licensed under chapter 70.41 RCW.

NEW SECTION. **Sec. 412.** (1) The department shall establish licensing rules for enhanced services facilities to serve the populations defined in this chapter.

(2) No person or public or private agency may operate or maintain an enhanced services facility without a license, which must be renewed annually.

(3) A licensee shall have the following readily accessible and available for review by the department, residents, families of residents, and the public:

(a) Its license to operate and a copy of the department's most recent inspection report and any recent complaint investigation reports issued by the department;

(b) Its written policies and procedures for all treatment, care, and services provided directly or indirectly by the facility; and

(c) The department's toll-free complaint number, which shall also be posted in a clearly visible place and manner.

(4) Enhanced services facilities shall maintain a grievance procedure that meets the requirements of rules established by the department.

(5) No facility shall discriminate or retaliate in any manner against a resident or employee because the resident, employee, or any other person made a complaint or provided information to the department, the long-term care ombudsman, Washington protection and advocacy system, or a mental health ombudsperson.

(6) Each enhanced services facility will post in a prominent place in a common area a notice by the Washington protection and advocacy system providing contact information.

NEW SECTION. **Sec. 413.** (1) In any case in which the department finds that a licensee of a facility, or any partner, officer, director, owner of five percent or more of the assets of the facility, or managing employee failed or refused to comply with the requirements of this chapter or the rules established under them, the department may take any or all of the following actions:

(a) Suspend, revoke, or refuse to issue or renew a license;

(b) Order stop placement; or

(c) Assess civil monetary penalties.

(2) The department may suspend, revoke, or refuse to renew a license, assess civil monetary penalties, or both, in any case in which it finds that the licensee of a facility, or any partner, officer, director, owner of five percent or more of the assets of the facility, or managing employee:

(a) Operated a facility without a license or under a revoked or suspended license;

(b) Knowingly or with reason to know made a false statement of a material fact in the license application or any data attached thereto, or in any matter under investigation by the department;

(c) Refused to allow representatives or agents of the department to inspect all books, records, and files required to be maintained or any portion of the premises of the facility;

(d) Willfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the department and the lawful enforcement of any provision of this chapter;

(e) Willfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of any of the provisions of this chapter or of the rules adopted under it; or

(f) Failed to pay any civil monetary penalty assessed by the department under this chapter within ten days after the assessment becomes final.

(3)(a) Civil penalties collected under this chapter shall be deposited into a special fund administered by the department.

(b) Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day the facility is or was out of compliance. Civil monetary penalties shall not exceed three thousand dollars per day. Each day upon which the same or a substantially similar action occurs is a separate violation subject to the assessment of a separate penalty.

(4) The department may use the civil penalty monetary fund for the protection of the health or property of residents of facilities found to be deficient including:

(a) Payment for the cost of relocation of residents to other facilities;

(b) Payment to maintain operation of a facility pending correction of deficiencies or closure; and

(c) Reimbursement of a resident for personal funds or property loss.

(5)(a) The department may issue a stop placement order on a facility, effective upon oral or written notice, when the department determines:

(i) The facility no longer substantially meets the requirements of this chapter; and

(ii) The deficiency or deficiencies in the facility:

(A) Jeopardizes the health and safety of the residents; or

(B) Seriously limits the facility's capacity to provide adequate care.

(b) When the department has ordered a stop placement, the department may approve a readmission to the facility from a hospital, residential treatment facility, or crisis intervention facility when the department determines the readmission would be in the best interest of the individual seeking readmission.

(6) If the department determines that an emergency exists and resident health and safety is immediately jeopardized as a result of a facility's failure or refusal to comply with this chapter, the department may summarily suspend the facility's license and order the immediate closure of the facility, or the immediate transfer of residents, or both.

(7) If the department determines that the health or safety of the residents is immediately jeopardized as a result of a facility's failure or refusal to comply with requirements of this chapter, the department may appoint temporary management to:

(a) Oversee the operation of the facility; and

(b) Ensure the health and safety of the facility's residents while:

(i) Orderly closure of the facility occurs; or

(ii) The deficiencies necessitating temporary management are corrected.

NEW SECTION. **Sec. 414.** (1) All orders of the department denying, suspending, or revoking the license or assessing a monetary penalty shall become final twenty days after the same has been served upon the applicant or licensee unless a hearing is requested.

(2) All orders of the department imposing stop placement, temporary management, emergency closure, emergency transfer, or summary license suspension shall be effective immediately upon notice, pending any hearing.

(3) Subject to the requirements of subsection (2) of this section, all hearings under this chapter and judicial review of such determinations shall be in accordance with the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. **Sec. 415.** Operation of a facility without a license in violation of this chapter and discrimination against medicaid recipients is a matter vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Operation of an enhanced services facility without a license in violation of this chapter is not reasonable in relation to the development and preservation of business. Such a violation is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. **Sec. 416.** A person operating or maintaining a facility without a license under this chapter is guilty of a misdemeanor and each day of a continuing violation after conviction shall be considered a separate offense.

NEW SECTION. **Sec. 417.** Notwithstanding the existence or use of any other remedy, the department may, in the manner provided by law, maintain an action in the name of the state for an injunction, civil penalty, or other process against a person to restrain or prevent the operation or maintenance of a facility without a license issued under this chapter.

NEW SECTION. **Sec. 418.** (1) The department shall make or cause to be made at least one inspection of each facility prior to licensure and an unannounced full inspection of facilities at least once every eighteen months. The statewide average interval between full facility inspections must be fifteen months.

(2) Any duly authorized officer, employee, or agent of the department may enter and inspect any facility at any time to determine that the facility is in compliance with this chapter and applicable rules, and to enforce any provision of this chapter. Complaint inspections shall be unannounced and conducted in such a manner as to ensure maximum effectiveness. No advance notice shall be given of any inspection unless authorized or required by federal law.

(3) During inspections, the facility must give the department access to areas, materials, and equipment used to provide care or support to residents, including resident and staff records, accounts, and the physical premises, including the buildings, grounds, and equipment. The department has the authority to privately interview the provider, staff, residents, and other individuals familiar with resident care and treatment.

(4) Any public employee giving advance notice of an inspection in violation of this section shall be suspended from all duties without pay for a period of not less than five nor more than fifteen days.

(5) The department shall prepare a written report describing the violations found during an inspection, and shall provide a copy of the inspection report to the facility.

(6) The facility shall develop a written plan of correction for any violations identified by the department and provide a plan of correction to the department within ten working days from the receipt of the inspection report.

NEW SECTION. **Sec. 419.** The facility shall only admit individuals:

(1) Who are over the age of eighteen;

(2) Who meet the resident eligibility requirements described in section 405 of this act; and

(3) Whose needs the facility can safely and appropriately meet through qualified and trained staff, services, equipment, security, and building design.

NEW SECTION. **Sec. 420.** If the facility does not employ a qualified professional able to furnish needed services, the facility must have a written contract with a qualified professional or agency outside the facility to furnish the needed services.

NEW SECTION. **Sec. 421.** At least sixty days before the effective date of any change of ownership, or change of management of a facility, the current operating entity must provide written notification about the proposed change separately and in writing, to the department, each resident of the facility, or the resident's guardian or representative.

NEW SECTION. **Sec. 422.** The facility shall:

(1) Maintain adequate resident records to enable the provision of necessary treatment, care, and services and to respond appropriately in emergency situations;

(2) Comply with all state and federal requirements related to documentation, confidentiality, and information sharing, including chapters 10.77, 70.02, 70.24, 70.96A, and 71.05 RCW; and

(3) Where possible, obtain signed releases of information designating the department, the facility, and the department of corrections where the person is under its supervision, as recipients of health care information.

NEW SECTION. **Sec. 423.** (1) Standards for fire protection and the enforcement thereof, with respect to all facilities licensed under this chapter, are the responsibility of the chief of the Washington state patrol, through the director of fire protection, who must adopt recognized standards as applicable to facilities for the protection of life against the cause and spread of fire and fire hazards. If the facility to be licensed meets with the approval of the chief of the Washington state patrol, through the director of fire protection, the director of fire protection must submit to the department a written report approving the facility with respect to fire protection before a full license can be issued. The chief of the Washington state patrol, through the director of fire protection, shall conduct an unannounced full inspection of facilities at least once every eighteen months. The statewide average interval between full facility inspections must be fifteen months.

(2) Inspections of facilities by local authorities must be consistent with the requirements adopted by the chief of the Washington state patrol, through the director of fire protection. Findings of a serious nature must be coordinated with the department and the chief of the Washington state patrol, through the director of fire protection, for determination of appropriate actions to ensure a

safe environment for residents. The chief of the Washington state patrol, through the director of fire protection, has exclusive authority to determine appropriate corrective action under this section.

NEW SECTION. **Sec. 424.** No facility providing care and treatment for individuals placed in a facility, or agency licensing or placing residents in a facility, acting in the course of its duties, shall be civilly or criminally liable for performing its duties under this chapter, provided that such duties were performed in good faith and without gross negligence.

NEW SECTION. **Sec. 425.** (1) The secretary shall adopt rules to implement this chapter.

(2) Such rules shall at the minimum: (a) Promote safe treatment and necessary care of individuals residing in the facility and provide for safe and clean conditions; (b) establish licensee qualifications, licensing and enforcement, and license fees sufficient to cover the cost of licensing and enforcement.

PART V
FORENSIC AND CORRECTIONAL

Drug and Mental Health Courts

NEW SECTION. **Sec. 501.** A new section is added to chapter 2.28 RCW to read as follows:

(1) Counties may establish and operate mental health courts.

(2) For the purposes of this section, "mental health court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and symptoms of mental illness among nonviolent, mentally ill felony and nonfelony offenders by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment including drug treatment for persons with co-occurring disorders; mandatory periodic reviews, including drug testing if indicated; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a mental health court program must first:

(i) Exhaust all federal funding that is available to support the operations of its mental health court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for mental health court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for mental health court operations and associated services.

(b) Any county that establishes a mental health court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The mental health court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from psychiatric treatment;

(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) During which the defendant used a firearm; or

(D) During which the defendant caused substantial or great bodily harm or death to another person.

NEW SECTION. **Sec. 502.** A new section is added to chapter 2.28 RCW to read as follows:

Any county that has established a drug court and a mental health court under this chapter may combine the functions of both courts into a single therapeutic court.

NEW SECTION. **Sec. 503.** A new section is added to chapter 26.12 RCW to read as follows:

(1) Every county that authorizes the tax provided in section 804 of this act shall, and every county may, establish and operate a therapeutic court component for dependency proceedings designed to be effective for the court's size, location, and resources. A county with a drug court for criminal cases or with a mental health court may include a therapeutic court for dependency proceedings as a component of its existing program.

(2) For the purposes of this section, "therapeutic court" means a court that has special calendars or dockets designed for the intense judicial supervision, coordination, and oversight of treatment provided to parents and families who have substance abuse or mental health problems and who are involved in the dependency and is designed to achieve a reduction in:

(a) Child abuse and neglect;

(b) Out-of-home placement of children;

(c) Termination of parental rights; and

(d) Substance abuse or mental health symptoms among parents or guardians and their children.

(3) To the extent possible, the therapeutic court shall provide services for parents and families co-located with the court or as near to the court as practicable.

(4) The department of social and health services shall furnish services to the therapeutic court unless a court contracts with providers outside of the department.

(5) Any jurisdiction that receives a state appropriation to fund a therapeutic court must first exhaust all federal funding available for the development and operation of the therapeutic court and associated services.

(6) Moneys allocated by the state for a therapeutic court must be used to supplement, not supplant, other federal, state, local, and private funding for court operations and associated services under this section.

(7) Any county that establishes a therapeutic court or receives funds for an existing court under this section shall:

(a) Establish minimum requirements for the participation in the program; and

(b) Develop an evaluation component of the court, including tracking the success rates in graduating from treatment, reunifying parents with their children, and the costs and benefits of the court.

Sec. 504. RCW 2.28.170 and 2002 c 290 s 13 are each amended to read as follows:

(1) Counties may establish and operate drug courts.

(2) For the purposes of this section, "drug court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and substance abuse among nonviolent, substance abusing felony and nonfelony offenders by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic drug testing; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a drug court program must first:

(i) Exhaust all federal funding ((~~received from the office of national drug control policy~~)) that is available to support the operations of its drug court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for drug court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for drug court operations and associated services.

(b) Any county that establishes a drug court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The drug court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from substance abuse treatment;

(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) During which the defendant used a firearm; or

(D) During which the defendant caused substantial or great bodily harm or death to another person.

Regional Jails

NEW SECTION. **Sec. 505.** (1) The joint legislative audit and review committee shall investigate and assess whether there are existing facilities in the state that could be converted to use as a regional jail for offenders who have mental or chemical dependency disorders, or both, that need specialized housing and treatment arrangements.

(2) The joint legislative audit and review committee shall consider the feasibility of using at least the following facilities or types of facilities:

(a) State-owned or operated facilities; and

(b) Closed or abandoned nursing homes.

(3) The analysis shall include an assessment of when such facilities could be available for use as a regional jail and the potential costs, costs avoided, and benefits of at least the following considerations:

(a) Any impact on existing offenders or residents;

(b) The conversion of the facilities;

(c) Infrastructure tied to the facilities;

(d) Whether the facility is, or can be, sized proportionately to the available pool of offenders;

(e) Changes in criminal justice costs, including transport, access to legal assistance, and access to courts;

(f) Reductions in jail populations; and

(g) Changes in treatment costs for these offenders.

(4) The joint legislative audit and review committee shall report its findings and recommendations to the appropriate committees of the legislature not later than December 15, 2005.

Competency and Criminal Insanity

NEW SECTION. **Sec. 506.** By January 1, 2006, the department of social and health services shall:

(1) Reduce the waiting times for competency evaluation and restoration to the maximum extent possible using funds appropriated for this purpose; and

(2) Report to the legislature with an analysis of several alternative strategies for addressing increases in forensic population and minimizing waiting periods for competency evaluation and restoration. The report shall discuss, at a minimum, the costs and advantages of, and barriers to co-locating professional persons in jails, performing restoration treatment in less restrictive alternatives than the state hospitals, and the use of regional jail facilities to accomplish competency evaluation and restoration.

ESSB 6358 Implementation Issues

Sec. 507. RCW 71.05.157 and 2004 c 166 s 16 are each amended to read as follows:

(1) When a ((~~county~~)) designated mental health professional is notified by a jail that a defendant or offender who was subject to a discharge review under RCW 71.05.232 is to be released to the community, the ((~~county~~)) designated mental health professional shall evaluate the person within seventy-two hours of release.

(2) When an offender is under court-ordered treatment in the community and the supervision of the department of corrections, and the treatment provider becomes aware that the person is in violation of the terms of the court order, the treatment provider shall notify the ((~~county~~)) designated mental health professional and the department of corrections of the violation and request an evaluation for purposes of revocation of the less restrictive alternative.

(3) When a ((~~county~~)) designated mental health professional becomes aware that an offender who is under court-ordered treatment in the community and the supervision of the department of corrections is in violation of a treatment order or a condition of supervision that relates to public safety, or the ((~~county~~)) designated mental health professional detains a person under this chapter, the ((~~county~~)) designated mental health professional shall notify the person's treatment provider and the department of corrections.

(4) When an offender who is confined in a state correctional facility or is under supervision of the department of corrections in the community is subject to a petition for involuntary treatment under this chapter, the petitioner shall notify the department of corrections and the department of corrections shall provide documentation of its risk assessment or other concerns to the petitioner and the court if the department of corrections classified the offender as a high risk or high needs offender.

(5) Nothing in this section creates a duty on any treatment provider or ((~~county~~)) designated mental health professional to provide offender supervision.

NEW SECTION. **Sec. 508.** A new section is added to chapter 70.96A RCW to read as follows:

(1) Treatment providers shall inquire of each person seeking treatment, at intake, whether the person is subject to court ordered mental health or chemical dependency treatment, whether civil or criminal, and document the person's response in his or her record. If the person is in treatment on the effective date of this section, and the treatment provider has not inquired whether the person is subject to court ordered mental health or chemical dependency treatment, the treatment provider shall inquire on the person's next treatment session and document the person's response in his or her record.

(2) Treatment providers shall inquire of each person seeking treatment, at intake, whether the person is subject to supervision of any kind by the department of corrections and document the person's response in his or her record. If the person is in treatment on the effective date of this section, and the treatment provider has not inquired whether the person is subject to supervision of any kind by

the department of corrections, the treatment provider shall inquire on the person's next treatment session and document the person's response in his or her record.

(3) For all persons who are subject to both court ordered mental health or chemical dependency treatment and supervision by the department of corrections, the treatment provider shall request an authorization to release records and notify the person that, unless expressly excluded by the court order the law requires treatment providers to share information with the department of corrections and the person's mental health treatment provider.

(4) If the treatment provider has reason to believe that a person is subject to supervision by the department of corrections but the person's record does not indicate that he or she is, the treatment provider may call any department of corrections office and provide the person's name and birth date. If the person is subject to supervision, the treatment provider shall request, and the department of corrections shall provide, the name and contact information for the person's community corrections officer.

PART VI
BEST PRACTICES AND COLLABORATION

NEW SECTION. **Sec. 601.** (1) The department of social and health services, in consultation with the members of the team charged with developing the state plan for co-occurring mental and substance abuse disorders, shall adopt, not later than January 1, 2006, an integrated and comprehensive screening and assessment process for chemical dependency and mental disorders and co-occurring chemical dependency and mental disorders.

(a) The process adopted shall include, at a minimum:

(i) An initial screening tool that can be used by intake personnel system-wide and which will identify the most common types of co-occurring disorders;

(ii) An assessment process for those cases in which assessment is indicated that provides an appropriate degree of assessment for most situations, which can be expanded for complex situations;

(iii) Identification of triggers in the screening that indicate the need to begin an assessment;

(iv) Identification of triggers after or outside the screening that indicate a need to begin or resume an assessment;

(v) The components of an assessment process and a protocol for determining whether part or all of the assessment is necessary, and at what point; and

(vi) Emphasis that the process adopted under this section is to replace and not to duplicate existing intake, screening, and assessment tools and processes.

(b) The department shall consider existing models, including those already adopted by other states, and to the extent possible, adopt an established, proven model.

(c) The integrated, comprehensive screening and assessment process shall be implemented statewide by all chemical dependency and mental health treatment providers as well as all designated mental health professionals, designated chemical dependency specialists, and designated crisis responders not later than January 1, 2007.

(2) The department shall provide adequate training to effect statewide implementation by the dates designated in this section and shall report the rates of co-occurring disorders and the stage of screening or assessment at which the co-occurring disorder was identified to the appropriate committees of the legislature.

(3) The department shall establish contractual penalties to contracted treatment providers, the regional support networks, and their contracted providers for failure to implement the integrated screening and assessment process by July 1, 2007.

NEW SECTION. **Sec. 602.** The department of corrections shall, to the extent that resources are available for this purpose, utilize the integrated, comprehensive screening and assessment process for chemical dependency and mental disorders developed under section 601 of this act.

NEW SECTION. **Sec. 603.** A new section is added to chapter 71.24 RCW to read as follows:

(1) By June 30, 2006, the department shall develop and implement a matrix or set of matrices for providing services based on the following principles:

(a) Maximizing evidence-based practices where these practices exist; where no evidence-based practice exists, the use of research-based practices, including but not limited to, the adaptation of evidence-based practices to new situations; where no evidence-based or research-based practices exist the use of consensus-based practices; and, to the extent that funds are available, the use of promising practices;

(b) Maximizing the person's independence, recovery, and employment by consideration of the person's strengths and supports in the community;

(c) Maximizing the person's participation in treatment decisions including, where possible, the person's awareness of, and technical assistance in preparing, mental health advance directives; and

(d) Collaboration with consumer-based support programs.

(2) The matrix or set of matrices shall include both adults and children and persons with co-occurring mental and substance abuse disorders and shall build on the service intensity quadrant models that have been developed in this state.

(3)(a) The matrix or set of matrices shall be developed in collaboration with experts in evidence-based practices for mental disorders, chemical dependency disorders, and co-occurring mental and chemical dependency disorders at the University of Washington, and in consultation with representatives of the regional support networks, community mental health providers, county chemical dependency coordinators, chemical dependency providers, consumers, family advocates, and community inpatient providers.

(b) The matrix or set of matrices shall, to the extent possible, adopt or utilize materials already prepared by the department or by other states.

(4)(a) The department shall require, by contract with the regional support networks, that providers maximize the use of evidence-based, research-based, and consensus-based practices and document the percentage of clients enrolled in evidence-based, research-based, and consensus-based programs by program type.

(b) The department shall establish a schedule by which regional support networks and providers must adopt the matrix or set of matrices and a schedule of penalties for failure to adopt and implement the matrices. The department may act against the regional support networks or providers or both to enforce the provisions of this section and shall provide the appropriate committees of the legislature with the schedules adopted under this subsection by June 30, 2006.

(5) The following definitions apply to this section:

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

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

(c) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

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

NEW SECTION. **Sec. 604.** A new section is added to chapter 71.02 RCW to read as follows:

(1) The department of social and health services shall collaborate with community providers of mental health services, early learning and child care providers, child serving agencies, and child-placing agencies to identify and utilize federal, state, and local services and providers for children in out-of-home care and other populations of vulnerable children who are in need of an evaluation and treatment for mental health services and do not qualify for medicaid or treatment services through the regional support networks.

(2) If no appropriate mental health services are available through federal, state, or local services and providers for a child described in subsection (1) of this section, the regional support network must provide a child, at a minimum, with a mental health evaluation consistent with chapter 71.24 RCW.

(3) The department, in collaboration with the office of the superintendent of public instruction, local providers, local school districts, and the regional support networks, shall identify and review existing programs and services as well as the unmet need for programs and services serving birth to five and school-aged children who exhibit early signs of behavioral or mental health disorders and who are not otherwise eligible for services through the regional support networks. The review of programs and services shall include, but not be limited to, the utilization and effectiveness of early intervention or prevention services and the primary intervention programs.

The department of social and health services shall provide a briefing on the collaboration's findings and recommendations to the appropriate committee of the legislature by December 31, 2005.

NEW SECTION. **Sec. 605.** The Washington state institute for public policy shall study the net short-run and long-run fiscal savings to state and local governments of implementing evidence-based treatment of chemical dependency disorders, mental disorders, and co-occurring mental and substance abuse disorders. The institute shall use the results from its 2004 report entitled "Benefits and Costs of Prevention and Early Intervention Programs for Youth" and its work on effective adult corrections programs to project total fiscal impacts under alternative implementation scenarios. In addition to fiscal outcomes, the institute shall estimate the long-run effects that an evidence-based strategy could have on statewide education, crime, child abuse and neglect, substance abuse, and economic outcomes. The institute shall provide an interim report to the appropriate committees of the legislature by January 1, 2006, and a final report by June 30, 2006.

PART VII
REPEALERS AND CROSS-REFERENCE CORRECTIONS

NEW SECTION. **Sec. 701.** The following acts or parts of acts are each repealed on the effective date of section 107 of this act:

(1) RCW 71.05.060 (Rights of persons complained against) and 1973 1st ex.s. c 142 s 11;

(2) RCW 71.05.070 (Prayer treatment) and 1973 1st ex.s. c 142 s 12;

(3) RCW 71.05.090 (Choice of physicians) and 1973 2nd ex.s. c 24 s 3 & 1973 1st ex.s. c 142 s 14;

(4) RCW 71.05.200 (Notice and statement of rights--Probable cause hearing) and 1998 c 297 s 11, 1997 c 112 s 14, 1989 c 120 s 5, 1974 ex.s. c 145 s 13, & 1973 1st ex.s. c 142 s 25;

(5) RCW 71.05.250 (Probable cause hearing--Detained person's rights--Waiver of privilege--Limitation--Records as evidence) and 1989 c 120 s 7, 1987 c 439 s 6, 1974 ex.s. c 145 s 17, & 1973 1st ex.s. c 142 s 30;

(6) RCW 71.05.450 (Competency--Effect--Statement of Washington law) and 1994 sp.s. c 7 s 440 & 1973 1st ex.s. c 142 s 50;

(7) RCW 71.05.460 (Right to counsel) and 1997 c 112 s 33 & 1973 1st ex.s. c 142 s 51;

(8) RCW 71.05.470 (Right to examination) and 1997 c 112 s 34 & 1973 1st ex.s. c 142 s 52;

(9) RCW 71.05.480 (Petitioning for release--Writ of habeas corpus) and 1974 ex.s. c 145 s 29 & 1973 1st ex.s. c 142 s 53; and

(10) RCW 71.05.490 (Rights of persons committed before January 1, 1974) and 1997 c 112 s 35 & 1973 1st ex.s. c 142 s 54.

NEW SECTION. **Sec. 702.** The following acts or parts of acts are each repealed on the effective date of section 109 of this act:

(11) RCW 71.05.155 (Request to mental health professional by law enforcement agency for investigation under RCW 71.05.150--Advisory report of results) and 1997 c 112 s 9 & 1979 ex.s. c 215 s 10;

(12) RCW 71.05.395 (Application of uniform health care information act, chapter 70.02 RCW) and 1993 c 448 s 8;

(13) RCW 71.05.400 (Release of information to patient's next of kin, attorney, guardian, conservator--Notification of patient's death) and 1993 c 448 s 7, 1974 ex.s. c 115 s 1, 1973 2nd ex.s. c 24 s 6, & 1973 1st ex.s. c 142 s 45;

(14) RCW 71.05.410 (Notice of disappearance of patient) and 1997 c 112 s 32, 1973 2nd ex.s. c 24 s 7, & 1973 1st ex.s. c 142 s 46; and

(15) RCW 71.05.430 (Statistical data) and 1973 1st ex.s. c 142 s 48.

NEW SECTION. **Sec. 703.** RCW 71.05.610 (Treatment records--Definitions) and 1989 c 205 s 11 are each repealed on the effective date of sections 104 through 106 of this act.

NEW SECTION. **Sec. 704.** The following acts or parts of acts are each repealed:

(16) RCW 71.05.650 (Treatment records--Notation of and access to released data) and 1989 c 205 s 15; and

(17) RCW 71.05.670 (Treatment records--Violations--Civil action) and 1999 c 13 s 10.

Sec. 705. RCW 5.60.060 and 2001 c 286 s 2 are each amended to read as follows:

(1) A husband shall not be examined for or against his wife, without the consent of the wife, nor a wife for or against her husband without the consent of the husband; nor can either during marriage or afterward, be without the consent of the other, examined as to any

communication made by one to the other during marriage. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding against a spouse if the marriage occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said husband or wife against any child of whom said husband or wife is the parent or guardian, nor to a proceeding under chapter 70.96A, 70.-- (sections 202 through 216 of this act), 71.05, or 71.09 RCW: PROVIDED, That the spouse of a person sought to be detained under chapter 70.96A, 70.--(sections 202 through 216 of this act), 71.05, or 71.09 RCW may not be compelled to testify and shall be so informed by the court prior to being called as a witness.

(2)(a) An attorney or counselor shall not, without the consent of his or her client, be examined as to any communication made by the client to him or her, or his or her advice given thereon in the course of professional employment.

(b) A parent or guardian of a minor child arrested on a criminal charge may not be examined as to a communication between the child and his or her attorney if the communication was made in the presence of the parent or guardian. This privilege does not extend to communications made prior to the arrest.

(3) A member of the clergy or a priest shall not, without the consent of a person making the confession, be examined as to any confession made to him or her in his or her professional character, in the course of discipline enjoined by the church to which he or she belongs.

(4) Subject to the limitations under RCW 70.96A.140 or ((~~71.05.250~~)) 71.05.360 (8) and (9), a physician or surgeon or osteopathic physician or surgeon or podiatric physician or surgeon shall not, without the consent of his or her patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him or her to prescribe or act for the patient, except as follows:

(a) In any judicial proceedings regarding a child's injury, neglect, or sexual abuse or the cause thereof; and

(b) Ninety days after filing an action for personal injuries or wrongful death, the claimant shall be deemed to waive the physician-patient privilege. Waiver of the physician-patient privilege for any one physician or condition constitutes a waiver of the privilege as to all physicians or conditions, subject to such limitations as a court may impose pursuant to court rules.

(5) A public officer shall not be examined as a witness as to communications made to him or her in official confidence, when the public interest would suffer by the disclosure.

(6)(a) A peer support group counselor shall not, without consent of the law enforcement officer making the communication, be compelled to testify about any communication made to the counselor by the officer while receiving counseling. The counselor must be designated as such by the sheriff, police chief, or chief of the Washington state patrol, prior to the incident that results in counseling. The privilege only applies when the communication was made to the counselor while acting in his or her capacity as a peer support group counselor. The privilege does not apply if the counselor was an initial responding officer, a witness, or a party to the incident which prompted the delivery of peer support group counseling services to the law enforcement officer.

(b) For purposes of this section, "peer support group counselor" means a:

(i) Law enforcement officer, or civilian employee of a law enforcement agency, who has received training to provide emotional and moral support and counseling to an officer who needs those services as a result of an incident in which the officer was involved while acting in his or her official capacity; or

(ii) Nonemployee counselor who has been designated by the sheriff, police chief, or chief of the Washington state patrol to provide emotional and moral support and counseling to an officer who needs those services as a result of an incident in which the officer was involved while acting in his or her official capacity.

(7) A sexual assault advocate may not, without the consent of the victim, be examined as to any communication made by the victim to the sexual assault advocate.

(a) For purposes of this section, "sexual assault advocate" means the employee or volunteer from a rape crisis center, victim assistance unit, program, or association, that provides information, medical or legal advocacy, counseling, or support to victims of sexual assault, who is designated by the victim to accompany the victim to the hospital or other health care facility and to proceedings concerning the alleged assault, including police and prosecution interviews and court proceedings.

(b) A sexual assault advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. Any sexual assault advocate participating in good faith in the disclosing of records and communications under this section shall have immunity from any liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this section, the good faith of the sexual assault advocate who disclosed the confidential communication shall be presumed.

Sec. 706. RCW 18.83.110 and 1989 c 271 s 303 are each amended to read as follows:

Confidential communications between a client and a psychologist shall be privileged against compulsory disclosure to the same extent and subject to the same conditions as confidential communications between attorney and client, but this exception is subject to the limitations under RCW 70.96A.140 and ((~~71.05.250~~)) 71.05.360 (8) and (9).

Sec. 707. RCW 18.225.105 and 2003 c 204 s 1 are each amended to read as follows:

A person licensed under this chapter shall not disclose the written acknowledgment of the disclosure statement pursuant to RCW 18.225.100, nor any information acquired from persons consulting the individual in a professional capacity when the information was necessary to enable the individual to render professional services to those persons except:

(1) With the written authorization of that person or, in the case of death or disability, the person's personal representative;

(2) If the person waives the privilege by bringing charges against the person licensed under this chapter;

(3) In response to a subpoena from the secretary. The secretary may subpoena only records related to a complaint or report under RCW 18.130.050;

(4) As required under chapter 26.44 or 74.34 RCW or RCW ((~~71.05.250~~)) 71.05.360 (8) and (9); or

(5) To any individual if the person licensed under this chapter reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the individual or any other individual; however, there is no obligation on the part of the provider to so disclose.

Sec. 708. RCW 71.05.235 and 2000 c 74 s 6 are each amended to read as follows:

(1) If an individual is referred to a ((~~county~~)) designated mental health professional under RCW 10.77.090(1)(d)(iii)(A), the ((~~county~~)) designated mental health professional shall examine the individual within forty-eight hours. If the ((~~county~~)) designated mental health professional determines it is not appropriate to detain the individual or petition for a ninety-day less restrictive alternative under RCW 71.05.230(4), that decision shall be immediately presented to the superior court for hearing. The court shall hold a hearing to consider the decision of the ((~~county~~)) designated mental health professional not later than the next judicial day. At the hearing the superior court shall review the determination of the ((~~county~~)) designated mental health professional and determine whether an order should be entered requiring the person to be evaluated at an evaluation and treatment facility. No person referred to an evaluation and treatment facility may be held at the facility longer than seventy-two hours.

(2) If an individual is placed in an evaluation and treatment facility under RCW 10.77.090(1)(d)(iii)(B), a professional person shall evaluate the individual for purposes of determining whether to file a ninety-day inpatient or outpatient petition under chapter 71.05 RCW. Before expiration of the seventy-two hour evaluation period authorized under RCW 10.77.090(1)(d)(iii)(B), the professional person shall file a petition or, if the recommendation of the professional person is to release the individual, present his or her recommendation to the superior court of the county in which the criminal charge was dismissed. The superior court shall review the recommendation not later than forty-eight hours, excluding Saturdays, Sundays, and holidays, after the recommendation is presented. If the court rejects the recommendation to unconditionally release the individual, the court may order the individual detained at a designated evaluation and treatment facility for not more than a seventy-two hour evaluation and treatment period and direct the individual to appear at a surety hearing before that court within seventy-two hours, or the court may release the individual but direct the individual to appear at a surety hearing set before that court within eleven days, at which time the prosecutor may file a petition under this chapter for ninety-day inpatient or outpatient treatment. If a petition is filed by the prosecutor, the court may order that the person named in the petition be detained at the evaluation and treatment facility that performed the evaluation under this subsection or order the respondent to be in outpatient treatment. If a petition is filed but the individual fails to appear in court for the surety hearing, the court shall order that a mental health professional or peace officer shall take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility to be brought before the court the next judicial day after detention. Upon the individual's first appearance in court after a petition has been filed, proceedings under RCW 71.05.310 and 71.05.320 shall commence. For an individual subject to this subsection, the prosecutor or professional person may directly file a petition for ninety-day inpatient or outpatient treatment and no petition for initial detention or fourteen-day detention is required before such a petition may be filed.

The court shall conduct the hearing on the petition filed under this subsection within five judicial days of the date the petition is filed. The court may continue the hearing upon the written request of the person named in the petition or the person's attorney, for good cause shown, which continuance shall not exceed five additional judicial days. If the person named in the petition requests a jury trial, the trial shall commence within ten judicial days of the date of the filing of the petition. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The person shall be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence pursuant to RCW ((~~71.05.250~~)) 71.05.360 (8) and (9).

During the proceeding the person named in the petition shall continue to be detained and treated until released by order of the court. If no order has been made within thirty days after the filing of the petition, not including any extensions of time requested by the detained person or his or her attorney, the detained person shall be released.

(3) If a ((~~county~~)) designated mental health professional or the professional person and prosecuting attorney for the county in which the criminal charge was dismissed or attorney general, as appropriate, stipulate that the individual does not present a likelihood of serious harm or is not gravely disabled, the hearing under this section is not required and the individual, if in custody, shall be released.

(4) The individual shall have the rights specified in RCW ((~~71.05.250~~)) 71.05.360 (8) and (9).

Sec. 709. RCW 71.05.310 and 1987 c 439 s 9 are each amended to read as follows:

The court shall conduct a hearing on the petition for ninety day treatment within five judicial days of the first court appearance after the probable cause hearing. The court may continue the hearing upon the written request of the person named in the petition or the person's attorney, for good cause shown, which continuance shall not exceed five additional judicial days. If the person named in the petition requests a jury trial, the trial shall commence within ten judicial days of the first court appearance after the probable cause hearing. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The person shall be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence pursuant to RCW ((~~71.05.250~~)) 71.05.360 (8) and (9).

During the proceeding, the person named in the petition shall continue to be treated until released by order of the superior court. If no order has been made within thirty days after the filing of the petition, not including extensions of time requested by the detained person or his or her attorney, the detained person shall be released.

Sec. 710. RCW 71.05.425 and 2000 c 94 s 10 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before conditional release, final release, authorized leave under RCW 71.05.325(2), or transfer to a facility other than a state mental hospital, the superintendent shall send written notice of conditional release, release, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.090(4) to the following:

(i) The chief of police of the city, if any, in which the person will reside; and

(ii) The sheriff of the county in which the person will reside.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.090(4):

(i) The victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.090(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(2)(c) or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings; and

(iii) Any person specified in writing by the prosecuting attorney. Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter.

(c) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical transfers.

(d) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.090(4) escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person resided immediately before the person's arrest. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.090(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(2) or the victim's next of kin if the crime was a homicide. In addition, the secretary shall also notify appropriate parties pursuant to RCW ((~~71.05.410~~)) 71.05.390(18). If the person is recaptured, the superintendent shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parent or legal guardian of the child.

(4) The superintendent shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Next of kin" means a person's spouse, parents, siblings, and children;

(d) "Felony harassment offense" means a crime of harassment as defined in RCW 9A.46.060 that is a felony.

Sec. 711. RCW 71.05.445 and 2004 c 166 s 4 are each amended to read as follows:

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

(a) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information.

(b) "Mental health service provider" means a public or private agency that provides services to persons with mental disorders as defined under RCW 71.05.020 and receives funding from public sources. This includes evaluation and treatment facilities as defined in RCW 71.05.020, community mental health service delivery systems, or community mental health programs as defined in RCW 71.24.025, and facilities conducting competency evaluations and restoration under chapter 10.77 RCW.

(2)(a) Information related to mental health services delivered to a person subject to chapter 9.94A or 9.95 RCW shall be released, upon request, by a mental health service provider to department of corrections personnel for whom the information is necessary to carry out the responsibilities of their office. The information must be provided only for the purposes of completing presentence investigations or risk assessment reports, supervision of an incarcerated offender or offender under supervision in the community, planning for and provision of supervision of an offender, or assessment of an offender's risk to the community. The request shall be in writing and shall not require the consent of the subject of the records.

(b) If an offender subject to chapter 9.94A or 9.95 RCW has failed to report for department of corrections supervision or in the event of an emergent situation that poses a significant risk to the public or the offender, information related to mental health services delivered to the offender and, if known, information regarding where the offender is likely to be found shall be released by the mental health services provider to the department of corrections upon request. The initial request may be written or oral. All oral requests must be subsequently confirmed in writing. Information released in response to an oral request is limited to a statement as to whether the offender is or is not being treated by the mental health services provider and the address or information about the location or whereabouts of the offender. Information released in response to a written request may include information identified by rule as provided in subsections (4) and (5) of this section. For purposes of this subsection a written request includes requests made by e-mail or facsimile so long as the requesting person at the department of corrections is clearly identified. The request must specify the information being requested. Disclosure of the information requested does not require the consent of the subject of the records unless the offender has received relief from disclosure under RCW 9.94A.562, 70.96A.155, or 71.05.132.

(3)(a) When a mental health service provider conducts its initial assessment for a person receiving court-ordered treatment, the service provider shall inquire and shall be told by the offender whether he or she is subject to supervision by the department of corrections.

(b) When a person receiving court-ordered treatment or treatment ordered by the department of corrections discloses to his or her mental health service provider that he or she is subject to supervision by the department of corrections, the mental health services provider shall notify the department of corrections that he or she is treating the offender and shall notify the offender that his or her community corrections officer will be notified of the treatment, provided that if the offender has received relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the mental health services provider with a copy of the order granting relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132, the mental health services provider is not required to notify the department of corrections that the mental health services provider is treating the offender. The notification may be written or oral and shall not require the consent of the offender. If an oral notification is made, it must be confirmed by a written notification. For purposes of this section, a written

notification includes notification by e-mail or facsimile, so long as the notifying mental health service provider is clearly identified.

(4) The information to be released to the department of corrections shall include all relevant records and reports, as defined by rule, necessary for the department of corrections to carry out its duties, including those records and reports identified in subsection (2) of this section.

(5) The department and the department of corrections, in consultation with regional support networks, mental health service providers as defined in subsection (1) of this section, mental health consumers, and advocates for persons with mental illness, shall adopt rules to implement the provisions of this section related to the type and scope of information to be released. These rules shall:

(a) Enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A or 9.95 RCW, including accessing and releasing or disclosing information of persons who received mental health services as a minor; and

(b) Establish requirements for the notification of persons under the supervision of the department of corrections regarding the provisions of this section.

(6) The information received by the department of corrections under this section shall remain confidential and subject to the limitations on disclosure outlined in chapter 71.05 RCW, except as provided in RCW 72.09.585.

(7) No mental health service provider or individual employed by a mental health service provider shall be held responsible for information released to or used by the department of corrections under the provisions of this section or rules adopted under this section except under RCW ((~~71.05.670 and~~)) 71.05.440.

(8) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(9) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under chapter 70.24 RCW.

(10) The department shall, subject to available resources, electronically, or by the most cost-effective means available, provide the department of corrections with the names, last dates of services, and addresses of specific regional support networks and mental health service providers that delivered mental health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the departments.

Sec. 712. RCW 71.05.640 and 2000 c 94 s 11 are each amended to read as follows:

(1) Procedures shall be established by resource management services to provide reasonable and timely access to individual treatment records. However, access may not be denied at any time to records of all medications and somatic treatments received by the individual.

(2) Following discharge, the individual shall have a right to a complete record of all medications and somatic treatments prescribed during evaluation, admission, or commitment and to a copy of the discharge summary prepared at the time of his or her discharge. A reasonable and uniform charge for reproduction may be assessed.

(3) Treatment records may be modified prior to inspection to protect the confidentiality of other patients or the names of any other persons referred to in the record who gave information on the condition that his or her identity remain confidential. Entire documents may not be withheld to protect such confidentiality.

(4) At the time of discharge all individuals shall be informed by resource management services of their rights as provided in RCW ((~~71.05.610~~)) 71.05.620 through 71.05.690.

Sec. 713. RCW 71.05.680 and 1999 c 13 s 11 are each amended to read as follows:

Any person who requests or obtains confidential information pursuant to RCW ((~~71.05.610~~)) 71.05.620 through 71.05.690 under false pretenses shall be guilty of a gross misdemeanor.

Sec. 714. RCW 71.05.690 and 1999 c 13 s 12 are each amended to read as follows:

The department shall adopt rules to implement RCW ((~~71.05.610~~)) 71.05.620 through 71.05.680.

Sec. 715. RCW 71.24.035 and 2001 c 334 s 7 and 2001 c 323 s 10 are each reenacted and amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary shall provide for public, client, and licensed service provider participation in developing the state mental health program, developing contracts with regional support networks, and any waiver request to the federal government under medicaid.

(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the county authority if a county fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates county biennial needs assessments and county mental health service plans and state services for mentally ill adults and children. The secretary may also develop a six-year state mental health plan;

(b) Assure that any regional or county community mental health program provides access to treatment for the county's residents in the following order of priority: (i) The acutely mentally ill; (ii) chronically mentally ill adults and severely emotionally disturbed children; and (iii) the seriously disturbed. Such programs shall provide:

(A) Outpatient services;

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

(C) Day treatment for mentally ill persons which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related services, that result in mentally ill persons becoming engaged in meaningful and gainful full or part-time work. Other sources of funding such as the division of vocational rehabilitation may be utilized by the secretary to maximize federal funding and provide for integration of services;

(F) Consultation and education services; and

(G) Community support services;

(c) Develop and adopt rules establishing state minimum standards for the delivery of mental health services pursuant to RCW 71.24.037 including, but not limited to:

(i) Licensed service providers. The secretary shall provide for deeming of compliance with state minimum standards for those entities accredited by recognized behavioral health accrediting bodies recognized and having a current agreement with the department;

(ii) Regional support networks; and

(iii) Inpatient services, evaluation and treatment services and facilities under chapter 71.05 RCW, resource management services, and community support services;

(d) Assure that the special needs of minorities, the elderly, disabled, children, and low-income persons are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards, which shall be used in contracting with regional support networks or counties. The standard contract shall include a maximum fund balance, which shall not exceed ten percent;

(f) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of county authorities and licensed service providers. The audit procedure shall focus on the outcomes of service and not the processes for accomplishing them;

(g) Develop and maintain an information system to be used by the state, counties, and regional support networks that includes a tracking method which allows the department and regional support networks to identify mental health clients' participation in any mental health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and in RCW 71.05.390, ((~~71.05.400, 71.05.410,~~)) 71.05.420, ((~~71.05.430,~~)) and 71.05.440. The design of the system and the data elements to be collected shall be reviewed by the work group appointed by the secretary under section 5(1) of this act and representing the department, regional support networks, service providers, consumers, and advocates. The data elements shall be designed to provide information that is needed to measure performance and achieve the service outcomes ((~~identified in section 5 of this act~~));

(h) License service providers who meet state minimum standards;

(i) Certify regional support networks that meet state minimum standards;

(j) Periodically monitor the compliance of certified regional support networks and their network of licensed service providers for compliance with the contract between the department, the regional support network, and federal and state rules at reasonable times and in a reasonable manner;

(k) Fix fees to be paid by evaluation and treatment centers to the secretary for the required inspections;

(l) Monitor and audit counties, regional support networks, and licensed service providers as needed to assure compliance with contractual agreements authorized by this chapter; and

(m) Adopt such rules as are necessary to implement the department's responsibilities under this chapter.

(6) The secretary shall use available resources only for regional support networks.

(7) Each certified regional support network and licensed service provider shall file with the secretary, on request, such data, statistics, schedules, and information as the secretary reasonably requires. A certified regional support network or licensed service provider which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may have its certification or license revoked or suspended.

(8) The secretary may suspend, revoke, limit, or restrict a certification or license, or refuse to grant a certification or license for failure to conform to: (a) The law; (b) applicable rules and regulations; (c) applicable standards; or (d) state minimum standards.

(9) The superior court may restrain any regional support network or service provider from operating without certification or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(10) Upon petition by the secretary, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any regional support network or service provider refusing to consent to inspection or examination by the authority.

(11) Notwithstanding the existence or pursuit of any other remedy, the secretary may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a regional support network or service provider without certification or a license under this chapter.

(12) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall otherwise assure the effectuation of the purposes of these chapters.

(13)(a) The department, in consultation with affected parties, shall establish a distribution formula that reflects county needs assessments based on the number of persons who are acutely mentally ill, chronically mentally ill, severely emotionally disturbed children, and seriously disturbed. The formula shall take into consideration the impact on counties of demographic factors in counties which result in concentrations of priority populations as set forth in subsection (5)(b) of this section. These factors shall include the population concentrations resulting from commitments under chapters 71.05 and 71.34 RCW to state psychiatric hospitals, as well as concentration in urban areas, at border crossings at state boundaries, and other significant demographic and workload factors.

(b) The formula shall also include a projection of the funding allocations that will result for each county, which specifies allocations according to priority populations, including the allocation for services to children and other underserved populations.

(c) After July 1, 2003, the department may allocate up to two percent of total funds to be distributed to the regional support networks for incentive payments to reward the achievement of superior outcomes, or significantly improved outcomes, as measured by a statewide performance measurement system consistent with the framework recommended in the joint legislative audit and review committee's performance audit of the mental health system. The department shall annually report to the legislature on its criteria and allocation of the incentives provided under this subsection.

(14) The secretary shall assume all duties assigned to the nonparticipating counties under chapters 71.05, 71.34, and 71.24 RCW. Such responsibilities shall include those which would have

been assigned to the nonparticipating counties under regional support networks.

The regional support networks, or the secretary's assumption of all responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be included in all state and federal plans affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(15) The secretary shall:

(a) Disburse funds for the regional support networks within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with regional support networks. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) Allocate one hundred percent of available resources to the regional support networks in accordance with subsection (13) of this section. Incentive payments authorized under subsection (13) of this section may be allocated separately from other available resources.

(d) Notify regional support networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(e) Deny funding allocations to regional support networks based solely upon formal findings of noncompliance with the terms of the regional support network's contract with the department. Written notice and at least thirty days for corrective action must precede any such action. In such cases, regional support networks shall have full rights to appeal under chapter 34.05 RCW.

(16) The department, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by free-standing evaluation and treatment facilities certified under chapter 71.05 RCW. The department shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

PART VIII
MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 801.** RCW 71.05.035 is recodified as a new section in chapter 71A.12 RCW.

NEW SECTION. **Sec. 802.** A new section is added to chapter 43.20A RCW to read as follows:

Beginning July 1, 2007, the secretary shall require, in the contracts the department negotiates pursuant to chapters 71.24 and 70.96A RCW, that any vendor rate increases provided for mental health and chemical dependency treatment providers or programs who are parties to the contract or subcontractors of any party to the contract shall be prioritized to those providers and programs that maximize the use of evidence-based and research-based practices, as those terms are defined in section 603 of this act, unless otherwise designated by the legislature.

NEW SECTION. **Sec. 803.** A new section is added to chapter 71.24 RCW to read as follows:

The department shall require each regional support network to provide for a separately funded mental health ombudsman office in each regional support network that is independent of the regional support network. The ombudsman office shall maximize the use of consumer advocates.

NEW SECTION. **Sec. 804.** A new section is added to chapter 82.14 RCW to read as follows:

(1) A county legislative authority may authorize, fix, and impose a sales and use tax in accordance with the terms of this chapter.

(2) The tax authorized in this section shall be in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax shall equal one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(3) Moneys collected under this section shall be used solely for the purpose of providing new or expanded chemical dependency or mental health treatment services and for the operation of new or expanded therapeutic court programs. Moneys collected under this section shall not be used to supplant existing funding for these purposes.

NEW SECTION. **Sec. 805.** A new section is added to chapter 71.24 RCW to read as follows:

The department may establish new regional support network boundaries in any part of the state where more than one network chooses not to respond to, or is unable to substantially meet the requirements of, the request for qualifications under 2005 c . . . (Engrossed Second Substitute House Bill No. 1290, as amended by the Senate) s 4 or where a regional support network is subject to reprocurement under 2005 c . . . (Engrossed Second Substitute House Bill No. 1290, as amended by the Senate) s 6. The department may establish no fewer than eight and no more than fourteen regional support networks under this chapter. No entity shall be responsible for more than three regional support networks.

NEW SECTION. **Sec. 806.** 2005 c ... (Engrossed Second Substitute House Bill No. 1290, as amended by the Senate) s 5 is hereby repealed.

NEW SECTION. **Sec. 807.** 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. 808.** This act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this act among those states which enact it.

NEW SECTION. **Sec. 809.** Captions, part headings, and subheadings used in this act are not part of the law.

NEW SECTION. **Sec. 810.** If specific funding for the purposes of sections 203, 217, 220, 301, 303, 305, 505, 601, and 605 of this act, referencing the section by section number and by bill or chapter number, is not provided by June 30, 2005, each section not referenced is null and void.

NEW SECTION. **Sec. 811.** (1) The code reviser shall alphabetize and renumber the definitions, and correct any internal references affected by this act.

(2) The code reviser shall replace all references to "county designated mental health professional" with "designated mental health professional" in the Revised Code of Washington.

NEW SECTION. **Sec. 812.** (1) The secretary of the department of social and health services may adopt rules as necessary to implement the provisions of this act.

(2) The secretary of corrections may adopt rules as necessary to implement the provisions of this act.

NEW SECTION. **Sec. 813.** (1) Except for section 503 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 July 1, 2005.

(2) Section 503 of this act takes effect July 1, 2006."

On page 1, line 2 of the title, after "2005;" strike the remainder of the title and insert "amending RCW 71.05.020, 71.24.025, 10.77.010, 71.05.360, 71.05.420, 71.05.620, 71.05.630, 71.05.640, 71.05.660, 71.05.550, 2.28.170, 71.05.157, 5.60.060, 18.83.110, 18.225.105, 71.05.235, 71.05.310, 71.05.425, 71.05.445, 71.05.640, 71.05.680, and 71.05.690; reenacting and amending RCW 71.05.390 and 71.24.035; adding new sections to chapter 71.05 RCW; adding new sections to chapter 70.96A RCW; adding a new section to chapter 13.34 RCW; adding new sections to chapter 2.28 RCW; adding a new section to chapter 26.12 RCW; adding new sections to chapter 71.24 RCW; adding a new section to chapter 71.02 RCW; adding a new section to chapter 71A.12 RCW; adding a new section to chapter 43.20A RCW; adding a new section to chapter 82.14 RCW; adding new chapters to Title 70 RCW; creating new sections; recodifying RCW 71.05.370 and 71.05.035; repealing RCW 71.05.060, 71.05.070, 71.05.090, 71.05.200, 71.05.250, 71.05.450, 71.05.460, 71.05.470, 71.05.480, 71.05.490, 71.05.155, 71.05.395, 71.05.400, 71.05.410, 71.05.430, 71.05.610, 71.05.650, and 71.05.670; repealing 2005 c ... (E2SHB 1290) s 5; prescribing penalties; providing effective dates; providing expiration dates; and declaring an emergency."

MESSAGE FROM THE SENATE

April 20, 2005

Mr. Speaker:

The Senate has passed SUBSTITUTE SENATE BILL NO. 5539, and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House reverted to the fourth order of business.

INTRODUCTION & FIRST READING

SSB 5539 by Senate Committee on Ways & Means (originally sponsored by Senators Jacobsen, Oke, Rasmussen, Doumit, Schmidt, Benson, Kastama, Shin, Pridemore, Franklin and Roach)

AN ACT Relating to restoring Washington's watersheds with help from postconflict veterans; reenacting and amending RCW 77.85.130; adding a new section to chapter 43.60A RCW; and creating a new section.

There being no objection, SUBSTITUTE SENATE BILL NO. 5539 was read the first time, the rules were suspended and the bill was placed on the Second Reading calendar.

MESSAGES FROM THE SENATE

April 20, 2005

Mr. Speaker:

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

SUBSTITUTE SENATE BILL NO. 5101,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5111,
SUBSTITUTE SENATE BILL NO. 5492,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 20, 2005

Mr. Speaker:

The Senate receded from it amendment to SUBSTITUTE HOUSE BILL NO. 1366, and passed the bill without said amendments, and the same is herewith transmitted.

Thomas Hoemann, Secretary

April 20, 2005

Mr. Speaker:

The Senate insists on its position on SUBSTITUTE HOUSE BILL NO. 1591 and asks the House to concur, and the same is herewith transmitted.

Thomas Hoemann, Secretary

April 20, 2005

Mr. Speaker:

The President has signed:

ENGROSSED SENATE BILL NO. 5049,
SENATE BILL NO. 5321,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5396,
ENGROSSED SENATE BILL NO. 5418,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5788,
SUBSTITUTE SENATE BILL NO. 5914,
ENGROSSED SENATE BILL NO. 5962,
SENATE BILL NO. 6033,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 20, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendments to ENGROSSED SENATE BILL NO. 5094 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

April 20, 2005

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE CONCURRENT RESOLUTION NO. 4404, and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENTS TO HOUSE BILL

April 13, 2005

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1270, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 41.26.500 and 1998 c 341 s 604 are each amended to read as follows:

(1) ((~~No~~)) Except as provided under subsection (3) or (4) of this section, a retiree under the provisions of plan 2 shall not be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, or 41.35.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030. If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section.

(3) Except as provided under subsection (4) of this section, a member or retiree who becomes employed in an eligible position as defined in RCW 41.40.010, 41.32.010, or 41.35.010 shall have the option to enter into membership in the corresponding retirement system for that position. A retiree who elects to enter into plan membership under the provisions of this subsection shall have his or her benefits suspended as provided in subsection (1) of this section. A retiree who does not elect to enter into plan membership under the provisions of this subsection shall continue to receive his or her benefits without interruption until the retiree has rendered service for more than one thousand five hundred hours in a calendar year.

(4) A member or retiree who is elected or appointed to the legislature pursuant to Article II of the state Constitution shall have the option to enter into membership in the public employees' retirement system as outlined in chapter 41.40 RCW. A retiree who elects to enter into public employees' retirement system membership under the provisions of this subsection shall have his or her benefits suspended as provided in subsection (1) of this section. A retiree who does not elect to enter into public employees' retirement system membership under the provisions of this subsection shall continue to receive his or her benefits without interruption for the duration of his or her legislative service.

(5) The legislature reserves the right to amend or appeal subsections (3) and (4) of this section in the future and no member or beneficiary has a contractual right to collect his or her monthly retirement allowance while working in an eligible position as defined in RCW 41.40.010, 41.32.010, or 41.35.010

Sec. 2. RCW 41.26.500 and 2004 c 242 s 54 are each amended to read as follows:

(1) ((~~No~~)) Except as provided under subsection (3) or (4) of this section, a retiree under the provisions of plan 2 shall not be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, 41.37.010, or 41.35.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030. If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section.

(3) Except as provided under subsection (4) of this section, a member or retiree who becomes employed in an eligible position as defined in RCW 41.40.010, 41.32.010, 41.35.010, or 41.37.010 shall have the option to enter into membership in the corresponding retirement system for that position. A retiree who elects to enter into plan membership under the provisions of this subsection shall have his or her benefits suspended as provided in subsection (1) of this section. A retiree who does not elect to enter into plan membership under the provisions of this subsection shall continue to receive his or her benefits without interruption until the retiree has rendered service for more than one thousand five hundred hours in a calendar year.

(4) A member or retiree who is elected or appointed to the legislature pursuant to Article II of the state Constitution shall have the option to enter into membership in the public employees' retirement system as outlined in chapter 41.40 RCW. A retiree who elects to enter into public employees' retirement system membership under the provisions of this subsection shall have his or her benefits suspended as provided in subsection (1) of this section. A retiree who does not elect to enter into public employees' retirement system membership under the provisions of this subsection shall continue to receive his or her benefits without interruption for the duration of his or her legislative service.

(5) The legislature reserves the right to amend or appeal subsections (3) and (4) of this section in the future and no member or beneficiary has a contractual right to collect his or

her monthly retirement allowance while working in an eligible position as defined in RCW 41.40.010, 41.32.010, 41.35.010, or 41.37.010.

Sec. 3. RCW 41.04.270 and 2001 c 180 s 4 are each amended to read as follows:

(1) ((~~Notwithstanding any provision of~~)) Except as provided in chapter 2.10, 2.12, 41.26, 41.28, 41.32, 41.35, 41.40, or 43.43 RCW ((~~to the contrary~~)), on and after March 19, 1976, any member or former member who (a) receives a retirement allowance earned by said former member as deferred compensation from any public retirement system authorized by the general laws of this state, or (b) is eligible to receive a retirement allowance from any public retirement system listed in RCW 41.50.030, but chooses not to apply, or (c) is the beneficiary of a disability allowance from any public retirement system listed in RCW 41.50.030 shall be estopped from becoming a member of or accruing any contractual rights whatsoever in any other public retirement system listed in RCW 41.50.030: PROVIDED, That (a) and (b) of this subsection shall not apply to persons who have accumulated less than fifteen years service credit in any such system or to persons receiving a retirement allowance under RCW 41.26.430 or 41.26.470.

(2) Nothing in this section is intended to apply to any retirement system except those listed in RCW 41.50.030 and the city employee retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b) of this section does not apply to a dual member as defined in RCW 41.54.010.

NEW SECTION. **Sec. 4.** Section 1 of this act expires July 1, 2006.

NEW SECTION. **Sec. 5.** Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec. 6.** Section 2 of this act takes effect July 1, 2006."

On page 1, on line 1 of the title, after "ACT", strike everything through line 3 of the title and insert "Relating to suspending a retirement allowance upon reemployment; amending RCW 41.04.270, 41.26.500 and 41.26.500; providing an effective date; providing an expiration date; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House refused to concur in the Senate Amendment to HOUSE BILL NO. 1270 and asked the Senate to recede therefrom.

SENATE AMENDMENTS TO HOUSE BILL

April 15, 2005

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1565, with the following amendment

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1)(a) The department of transportation shall administer a study to examine multimodal transportation improvements and strategies to comply with the concurrency requirements of RCW 36.70A.070(6), subject to the availability of amounts appropriated for this specific purpose. The study shall be completed by one or more regional transportation planning organizations established under chapter 47.80 RCW electing to participate in the study.

(b) The department of community, trade, and economic development shall provide technical assistance with the study to the department of transportation and participating regional transportation planning organizations.

(2) The department of transportation shall, in consultation with members from each of the two largest caucuses of the senate, appointed by the president of the senate, and members from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives, approve the scope of the study established by this section.

(3) The study shall, at a minimum, include:

(a) An assessment and comprehensive summary of studies or reports examining concurrency requirements and practices in Washington;

(b) An examination of existing or proposed multimodal transportation improvements or strategies employed by a city in a county with a population of one million or more residents;

(c) An examination of transit services and how these services promote multimodal transportation improvements or strategies for jurisdictions planning under RCW 36.70A.070(6)(b);

(d) Recommendations for statutory and administrative rule changes that will further the promotion of effective multimodal transportation improvements and strategies that are consistent with the provisions of RCW 36.70A.070 and 36.70A.020(3);

(e) Recommendations for improving the coordination of concurrency practices in all jurisdictions;

(f) Recommendations on a methodology that jurisdictions may use to evaluate the effectiveness of multimodal concurrency strategies in jurisdictions subject to the provisions of RCW 36.70A.070 and 36.70A.020(3);

(g) An identification of effective multimodal transportation improvements and strategies employed by jurisdictions subject to RCW 36.70A.215;

(h) Recommendations for model multimodal transportation improvements and strategies that may be employed by counties and cities; and

(i) An examination of multimodal infrastructure needs, such as bus pull outs and pedestrian crosswalks and overpasses, and how these needs can be better identified in the plans required by RCW 36.70A.070(6).

(4) The department of transportation shall, in coordination with participating regional transportation planning organizations completing the study established by this section, submit a report of

findings and recommendations to the appropriate committees of the legislature by December 31, 2006."

On page 1, line 1 of the title, after "strategies;" strike the remainder of the title and insert "and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House refused to concur in the Senate Amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1565 and asked the Senate to recede therefrom.

SENATE AMENDMENTS TO HOUSE BILL

April 14, 2005

Mr. Speakers:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1606, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.20.195 and 2004 c 140 s 5 are each amended to read as follows:

(1) The licensee or its designee has the right to an informal dispute resolution process to dispute any violation found or enforcement remedy imposed by the department during a licensing inspection or complaint investigation. The purpose of the informal dispute resolution process is to provide an opportunity for an exchange of information that may lead to the modification, deletion, or removal of a violation, or parts of a violation, or enforcement remedy imposed by the department.

(2) The informal dispute resolution process provided by the department shall include, but is not necessarily limited to, an opportunity for review by a department employee who did not participate in, or oversee, the determination of the violation or enforcement remedy under dispute. The department shall develop, or further develop, an informal dispute resolution process consistent with this section.

(3) A request for an informal dispute resolution shall be made to the department within ten working days from the receipt of a written finding of a violation or enforcement remedy. The request shall identify the violation or violations and enforcement remedy or remedies being disputed. The department shall convene a meeting, when possible, within ten working days of receipt of the request for informal dispute resolution, unless by mutual agreement a later date is agreed upon.

(4) If the department determines that a violation or enforcement remedy should not be cited or imposed, the department shall delete the violation or immediately rescind or modify the enforcement remedy. If the department determines that a violation should have been cited ((~~or an enforcement remedy imposed~~)) under a different more appropriate regulation, the department shall ((~~add the citation or enforcement remedy~~)) revise the report, statement of deficiencies, or enforcement remedy accordingly. Upon request, the department shall issue a clean copy of the revised report, statement of deficiencies, or notice of enforcement action.

(5) The request for informal dispute resolution does not delay the effective date of any enforcement remedy imposed by the department, except that civil monetary fines are not payable until the exhaustion of any formal hearing and appeal rights provided under this chapter. The licensee shall submit to the department, within the time period prescribed by the department, a plan of correction to address any undisputed violations, and including any violations that still remain following the informal dispute resolution.

NEW SECTION. **Sec. 2.** A new section is added to chapter 18.51 RCW to read as follows:

(1) A nursing home provider shall have the right to an informal review to present written evidence to refute the findings or deficiencies cited during a licensing or certification survey or a complaint investigation. The purpose of the informal dispute resolution process is to provide an opportunity for an exchange of information that may lead to the modification, deletion, or removal of a deficiency, or parts of a deficiency, cited by the department.

(2) The informal dispute resolution process provided by the department shall, at a minimum, be consistent with 42 C.F.R. 488.331 and the federal state operations manual and shall require the department when conducting an informal dispute resolution process with a nursing home provider or its designee to provide an opportunity for input from residents or resident representatives.

(3) If the department determines that a deficiency should not be cited, the department shall delete the deficiency. If the department determines that a deficiency should have been cited under a different more appropriate regulation, the department shall revise the statement of deficiencies accordingly. If the provider is successful in demonstrating that one or more deficiencies should not have been cited, the deficiency or deficiencies are removed from the statement of deficiencies and any enforcement action imposed solely as a result of the cited deficiency or deficiencies are rescinded. Upon request, the department shall issue a clean copy of the statement of deficiencies or notice of enforcement action. The request for informal dispute resolution does not delay the effective date of any enforcement remedy imposed by the department, except that civil monetary fines are not payable until the exhaustion of any formal hearing and appeal rights provided under this chapter."

On page 1, line 2 of the title, after "process;" strike the remainder of the title and insert "amending RCW 18.20.195; and adding a new section to chapter 18.51 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House refused to concur in the Senate Amendment to SUBSTITUTE HOUSE BILL NO. 1606 and asked the Senate to recede therefrom.

SENATE AMENDMENTS TO HOUSE BILL

April 15, 2005

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1397, with the following amendment:

On page 2, line 29 after “January 1, 2005" insert “, except as provided in this chapter”

On page 2, line 35, after "clean air act)." insert the following:

"Notwithstanding other provisions of this chapter, the department of ecology shall not adopt the zero emission vehicle program regulations contained in Title 13 section 1962 of the California Code of Regulations effective January 1, 2005."

On page 7, line 19 strike everything after "(1)" through "ecology" on line 20 and insert the following:

"(a) Is consistent with the vehicle emission standards as adopted by the department of ecology; (b) is consistent with the carbon dioxide equivalent emission standards as adopted by the department of ecology; and (c) has a California certification label for (i) all emission standards, and (ii) carbon dioxide equivalent emission standards necessary to meet fleet average requirements"

On page 2, line 30 after "2005." strike "By December 31, 2005,

On page 3, line 4 after "governor." strike everything through "later." on line and insert "The rules shall be effective only for those model years for which the state of Oregon has adopted the California motor vehicle emission standards."

On page 4, after line 10 insert the following:

"NEW SECTION. **Sec. 4.** Individual automobile manufacturers may certify independent automobile repair shops to perform warranty service on the manufacturers' vehicles. Upon certification of the independent automobile repair shops, the manufacturers shall compensate the repair shops at the same rate as franchised dealers for covered warranty repair services.

Renumber the sections consecutively and correct any internal references accordingly.

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1397 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Wallace and Murray spoke in favor the passage of the bill.

Representatives Woods, Ericksen and Nixon spoke against passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Substitute House Bill No. 1397 as amended by the Senate.

MOTION

On motion of Representative Santos, Representative Schual-Berke was excused.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1397, as amended by the Senate and the bill passed the House by the following vote: Yeas - 55, Nays - 42, Absent - 0, Excused - 1.

Voting yea: Representatives Anderson, Appleton, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Rodne, Santos, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Tom, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 55.

Voting nay: Representatives Ahern, Alexander, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Grant, Haler, Hankins, Hinkle, Holmquist, Kessler, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Roach, Schindler, Serben, Shabro, Skinner, Strow, Sump, Takko, Talcott, Walsh and Woods - 42.

Excused: Representative Schual-Berke - 1.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1397, as amended by the Senate having received the constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on ENGROSSED SUBSTITUTE HOUSE BILL NO. 1397.

WILLIAM EICKMEYER, 35th District

SENATE AMENDMENTS TO HOUSE BILL

April 12, 2005

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1970, with the following amendment:

Strike everything after the enacting clause and insert the following:

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

(1) Citizens demand and deserve accountability of public programs and activities. Public programs must continuously improve accountability and performance reporting in order to increase public trust.

(2) Washington state government agencies must continuously improve their management and performance so citizens receive maximum value for their tax dollars.

(3) The application of best practices in performance management has improved results and accountability in many Washington state agencies and other jurisdictions.

(4) All Washington state agencies must develop a performance-based culture that can better demonstrate accountability and achievement.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.17 RCW to read as follows:

As used in sections 3 and 4 of this act:

(1) "State agency" or "agency" means a state agency, department, office, officer, board, commission, bureau, division, institution, or institution of higher education, and all offices of executive branch state government-elected officials, except agricultural commissions under Title 15 RCW.

(2) "Quality management, accountability, and performance system" means a nationally recognized integrated, interdisciplinary system of measures, tools, and reports used to improve the performance of a work unit or organization.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.17 RCW to read as follows:

(1) Each state agency shall, within available funds, develop and implement a quality management, accountability, and performance system to improve the public services it provides.

(2) Each agency shall ensure that managers and staff at all levels, including those who directly deliver services, are engaged in the system and shall provide managers and staff with the training necessary for successful implementation.

(3) Each agency shall, within available funds, ensure that its quality management, accountability, and performance system:

(a) Uses strategic business planning to establish goals, objectives, and activities consistent with the priorities of government, as provided in statute;

(b) Engages stakeholders and customers in establishing service requirements and improving service delivery systems;

(c) Includes clear, relevant, and easy-to-understand measures for each activity;

(d) Gathers, monitors, and analyzes activity data;

(e) Uses the data to evaluate the effectiveness of programs to manage process performance, improve efficiency, and reduce costs;

(f) Establishes performance goals and expectations for employees that reflect the organization's objectives; and provides for regular assessments of employee performance;

(g) Uses activity measures to report progress toward agency objectives to the agency director at least quarterly;

(h) Where performance is not meeting intended objectives, holds regular problem-solving sessions to develop and implement a plan for addressing gaps; and

(i) Allocates resources based on strategies to improve performance.

(4) Each agency shall conduct a yearly assessment of its quality management, accountability, and performance system.

(5) State agencies whose chief executives are appointed by the governor shall report to the governor on agency performance at least quarterly. The reports shall be included on the agencies', the governor's, and the office of financial management's web sites.

(6) The governor shall report annually to citizens on the performance of state agency programs. The governor's report shall include:

(a) Progress made toward the priorities of government as a result of agency activities; and

(b) Improvements in agency quality management systems, fiscal efficiency, process efficiency, asset management, personnel management, statutory and regulatory compliance, and management of technology systems.

(7) Each state agency shall integrate efforts made under this section with other management, accountability, and performance systems undertaken under executive order or other authority.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.17 RCW to read as follows:

Starting no later than 2008, and at least once every three years thereafter, each agency shall apply to the Washington state quality award, or similar organization, for an independent assessment of its quality management, accountability, and performance system. The assessment shall evaluate the effectiveness of all elements of its management, accountability, and performance system, including: Leadership, strategic planning, customer focus, analysis and information, employee performance management, and process improvement. The purpose of the assessment is to recognize best practice and identify improvement opportunities.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2005, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "performance;" strike the remainder of the title and insert "adding new sections to chapter 43.17 RCW; and creating new sections."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1970 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Haigh, Nixon and Miloscia spoke in favor the passage of the bill.

Representatives Alexander, Clements and Armstrong spoke against passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Second Substitute House Bill No. 1970 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1970, as amended by the Senate and the bill passed the House by the following vote: Yeas - 66, Nays - 31, Absent - 0, Excused - 1.

Voting yea: Representatives Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant,

Green, Haigh, Hankins, Hasegawa, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roach, Roberts, Santos, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 66.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hinkle, Kretz, Kristiansen, Newhouse, Orcutt, Pearson, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump and Talcott - 31.

Excused: Representative Schual-Berke - 1.

SECOND SUBSTITUTE HOUSE BILL NO. 1970, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 19, 2005

Mr. Speaker:

The Senate receded from its amendment to SUBSTITUTE HOUSE BILL NO. 1496. Under suspension of the rules the bill was returned to second reading for purpose of amendment. The Senate adopted the following amendment and passed the bill as amended by the Senate:

Strike everything after the enacting clause and insert the following:

Sec. 1. RCW 66.16.040 and 2004 c 61 s 1 are each amended to read as follows:

Except as otherwise provided by law, an employee in a state liquor store or agency may sell liquor to any person of legal age to purchase alcoholic beverages and may also sell to holders of permits such liquor as may be purchased under such permits.

Where there may be a question of a person's right to purchase liquor by reason of age, such person shall be required to present any one of the following officially issued cards of identification which shows his/her correct age and bears his/her signature and photograph:

(1) Liquor control authority card of identification of any state or province of Canada.

(2) Driver's license, instruction permit or identification card of any state or province of Canada, or "identicard" issued by the Washington state department of licensing pursuant to RCW 46.20.117.

(3) United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents, which may include an imbedded, digital signature in lieu of a visible signature.

(4) Passport.

(5) Merchant Marine identification card issued by the United States Coast Guard.

(6) Enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington drivers' licenses. At least ninety days prior to implementation of an enrollment card under this subsection, the appropriate tribal authority shall give notice to the board. The board shall publish and communicate to licensees regarding the implementation of each new enrollment card.

The board may adopt such regulations as it deems proper covering the cards of identification listed in this section.

No liquor sold under this section shall be delivered until the purchaser has paid for the liquor in cash, except as allowed under RCW 66.16.041. The use of a personal credit card does not rely upon the credit of the state as prohibited by Article VIII, section 5 of the state Constitution.

Sec. 2. RCW 70.155.090 and 1993 c 507 s 10 are each amended to read as follows:

(1) Where there may be a question of a person's right to purchase or obtain tobacco products by reason of age, the retailer, sampler, or agent thereof, shall require the purchaser to present any one of the following officially issued identification that shows the purchaser's age and bears his or her signature and photograph: (a) Liquor control authority card of identification of a state or province of Canada; (b) driver's license, instruction permit, or identification card of a state or province of Canada; (c) "identicard" issued by the Washington state department of licensing under chapter 46.20 RCW; (d) United States military identification; (e) passport; (f) enrollment card, issued by the governing authority of a federally recognized Indian tribe located in Washington, that incorporates security features comparable to those implemented by the department of licensing for Washington drivers' licenses. At least ninety days prior to implementation of an enrollment card under this subsection, the appropriate tribal authority shall give notice to the board. The board shall publish and communicate to licensees regarding the implementation of each new enrollment card; or (g) merchant marine identification card issued by the United States coast guard.

(2) It is a defense to a prosecution under RCW 26.28.080((~~(4)~~)) that the person making a sale reasonably relied on any of the officially issued identification as defined in subsection (1) of this section. The liquor control board shall waive the suspension or revocation of a license if the licensee clearly establishes that he or she acted in good faith to prevent violations and a violation occurred despite the licensee's exercise of due diligence.

On page 1, line 2 of the title, after "tribes;" strike the remainder of the title and insert "amending RCW 66.16.040 and 70.155.090."

Renumber the sections consecutively and correct any internal references accordingly.

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1496 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Simpson and Priest spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1496 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1496, as amended by the Senate and the bill passed the House by the following vote: Yeas - 96, Nays - 1, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Voting nay: Representative Dunn - 1.

Excused: Representative Schual-Berke - 1.

SUBSTITUTE HOUSE BILL NO. 1496, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 19, 2005

Mr. Speaker:

The Senate receded from the its amendment to SUBSTITUTE HOUSE BILL NO. 1652. Under suspension of the rules returned the bill to second reading for purpose of amendment. The Senate adopted the following amendment and passed the bill as amended by the Senate:

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

"NEW SECTION. **Sec. 2.** The department of health shall conduct a study to evaluate the merits of allowing fire protection districts to establish or participate in the provision of health clinic services.

(1) The study shall consider any relevant matters, including but not limited to: the scope of the services which might be provided, the interest among Washington's fire protection districts in providing these services, the need for having them do so, the impact on overall health expenditures of allowing health services to be provided this way, potential government liability, and patient health and safety issues.

(2) The secretary of health shall appoint an advisory group of affected parties, including local physicians and other health care providers, to assist in the study.

(3) The department shall report the results of the study and any recommendations to the legislature by September 1, 2006. At a minimum,
the recommendations shall include: (a) the criteria and process which should be used to evaluate requests by fire protection districts to establish or participate in the provision of health clinic services; and (b) any other statutory or administrative changes needed to address the concerns identified."

On page 1, line 2 of the title, after "services;" strike "and" and on line 3, after "52.02.020" insert "; and creating a new section"

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1652 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Cody and Bailey spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 1652 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1652, as amended by the Senate and the bill passed the House by the following vote: Yeas - 95, Nays - 2, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 95.

Voting nay: Representatives Hinkle and Holmquist - 2.
Excused: Representative Schual-Berke - 1.

SUBSTITUTE HOUSE BILL NO. 1652, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 19, 2005

Mr. Speaker:

The Senate receded from its amendment to SUBSTITUTE HOUSE BILL NO. 2156. Under suspension of the rules the returned the bill to second reading for purpose of amendment. The Senate adopted the following amendment and passed the bill as amended by the Senate:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) A joint task force on child safety for children in child protective services or child welfare services is established. The joint task force shall consist of the following members:

(a) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(b) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(c) A representative from the Washington council for prevention of child abuse and neglect;

(d) One representative from each of the four most recent child fatality review committees;

(e) The secretary of the department of social and health services or the secretary's designee;

(f) The executive director of the office of public defense or the executive director's designee;

(g) The director of the office of family and children's ombudsman or the director's designee;

(h) A representative of the Washington association of sheriffs and police chiefs;

(i) The secretary of the department of health or the secretary's designee;

(j) A representative of the office of attorney general;

(k) A representative of the superior court judges association;

(l) One representative each from social workers for child protective services and social workers for child welfare services, appointed by the secretary of the department of social and health services; and

(m) The following members, jointly appointed by the speaker of the house of representatives and the president of the senate:

(i) A representative from a statewide foster parents association and a foster parent not affiliated with the statewide foster parents association;

(ii) A representative from a statewide birth parent organization or a birth parent who has been involved in the child welfare system;

(iii) Two representatives of Washington state Indian tribes as defined under the federal Indian welfare act (25 U.S.C. Sec. 1901 et seq.); and

(iv) One representative each from two different organizations that primarily provide services to children and families involved with the child welfare system.

(2) Two of the legislative members shall serve as cochairs of the task force.

(3) The task force shall review and make recommendations to the legislature and the governor on improving the health, safety, and welfare of Washington children in child protective services or child welfare services. In preparing the recommendations, the committee shall, at a minimum, review the following issues:

(a) State and federal statutes regarding child safety, placement, removal from the home, termination of parental rights, and reunification with parents;

(b) Current and ongoing department of social and health services work groups or work plans regarding child safety, placement, removal from the home, termination of parental rights, and reunification with parents;

(c) The purpose and value of child protection teams and determine whether any changes should be made;

(d) Best practices regarding children removed from parents at birth and placed in out-of-home care, transition services for families with children in out-of-home placement for an extended period of time, and standards for return to home placement when a child has been placed out-of-home including situations where a child has been placed out-of-home and returned to home multiple times;

(e) The training that is offered to social workers regarding child development and determine whether any changes should be made;

(f) Best practices regarding sharing of accurate, complete, and relevant medical, mental health, and substance abuse information between case workers, supervisors, the courts, child protection teams, counsel, guardians, parents, and other relevant participants in child placement decisions;

(g) Best practices for assessing and addressing chemical dependency issues of parents;

(h) The effectiveness of current home-based service providers currently used and determine whether any changes should be made;

(i) Best practices addressing family cultural and tribal issues and the role, if any, of social worker training or bias in safety assessment and placement decisions; and

(j) Other issues deemed relevant to improving child safety outcomes.

(4) The task force, where feasible, may consult with individuals from the public and private sector.

(5) The task force shall use legislative facilities and staff from senate committee services and the house office of program research.

(6) The task force shall report its preliminary findings and recommendations to the legislature by December 31, 2005, and a final report on its findings and recommendations by September 1, 2006.

NEW SECTION. **Sec. 2.** This act expires October 1, 2006.

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 1 of the title, after "rights;" strike the remainder of the title and insert "creating a new section; providing an expiration date; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2156 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Kagi and Hinkle spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 2156 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2156, as amended by the Senate and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Schual-Berke - 1.

SUBSTITUTE HOUSE BILL NO. 2156, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 19, 2005

Mr. Speaker:

The Senate receded from its amendment to SUBSTITUTE HOUSE BILL NO. 2169. Under suspension of the rules the bill was returned to second reading for purpose of amendment. The Senate adopted the following amendment and passed the bill as amended by the Senate:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) Notwithstanding RCW 74.15.030, counties with a population of three thousand or less may adopt and enforce ordinances and regulations as provided in this act for family day-care providers as defined in RCW 74.15.020(1)(f) as a twelve-month pilot project. Before a county may regulate family day-care providers in accordance with this act, it shall adopt ordinances and regulations that address, at a minimum, the following: (a) The size, safety, cleanliness, and general adequacy of the premises; (b) the plan of operation; (c) the character, suitability, and competence of a family day-care provider and other persons associated with a family day-care provider directly responsible for the care of children served; (d) the number of qualified persons required to render care; (e) the provision of necessary care, including food, clothing, supervision, and discipline; (f) the physical, mental, and social well-being of children served; (g) educational and recreational opportunities for children served; and (h) the maintenance of records pertaining to children served.

(2) The county shall notify the department of social and health services in writing sixty days prior to adoption of the family day-care regulations required pursuant to this act. The transfer of jurisdiction shall occur when the county has notified the department in writing of the effective date of the regulations, and shall be limited to a period of twelve months from the effective date of the regulations. Regulation by counties of family day-care providers as provided in this act shall be administered and enforced by those counties. The department shall not regulate these activities nor shall the department bear any civil liability under chapter 74.15 RCW for the twelve-month pilot period. Upon request, the department shall provide technical assistance to any county that is in the process of adopting the regulations required by this act, and after the regulations become effective.

(3) Any county regulating family day-care providers pursuant to this act shall report to the governor and the appropriate committees of the legislature concerning the outcome of the pilot project upon expiration of the twelve-month pilot period. The report shall include the ordinances and regulations adopted pursuant to subsection (1) of this section and a description of how those ordinances and regulations address the specific areas of regulation identified in subsection (1) of this section.

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

On page 1, line 1 of the title, after "care;" strike the remainder of the title and insert "creating a new section; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2169 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL

AS SENATE AMENDED

Representatives Kagi, Walsh and Clements spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 2169 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2169, as amended by the Senate and the bill passed the House by the following vote: Yeas - 96, Nays - 1, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Voting nay: Representative Cody - 1.

Excused: Representative Schual-Berke - 1.

SUBSTITUTE HOUSE BILL NO. 2169, as amended by the Senate having received the constitutional majority, was declared passed.

SENATE AMENDMENTS TO HOUSE BILL

April 19, 2005

Mr. Speaker:

The Senate receded from its amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2171. Under suspension of the rules the bill was returned to second reading for purpose of amendment. The Senate adopted the following amendment and passed the bill as amended by the Senate:

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2171 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Simpson and Schindler spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Substitute House Bill No. 2171 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2171, as amended by the Senate and the bill passed the House by the following vote: Yeas - 95, Nays - 2, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Santos, Schindler, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 95.

Voting nay: Representatives Anderson and Rodne - 2.

Excused: Representative Schual-Berke - 1.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2171, as amended by the Senate having received the constitutional majority, was declared passed.

There being no objection, the House immediately reconsidered the vote on third reading by which SECOND SUBSTITUTE SENATE BILL NO. 5202 passed the House.

RECONSIDERATION

SECOND SUBSTITUTE SENATE BILL NO. 5202, By Senate Committee on Ways & Means (originally sponsored by Senators Parlette, Hewitt, Zarelli, Brandland, Schoesler, Delvin, Mulliken, Johnson, Rasmussen, Benton, Roach, Oke, Benson and Stevens)

Requiring a study of public employee health plans and health savings account options.

Representative Cody spoke in favor of passage of the bill.

Representatives Condotta and Armstrong spoke against the of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5202.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5202 , as amended by the House and the bill failed the House by the following vote: Yeas - 24, Nays - 73, Absent - 0, Excused - 1.

Voting yea: Representatives Clibborn, Cody, Conway, Ericks, Flannigan, Fromhold, Grant, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Kirby, Lovick, McDermott, McIntire, Miloscia, Morrell, Pettigrew, Santos, Sommers, Wood and Mr. Speaker - 24.

Voting nay: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Condotta, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericksen, Green, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Jarrett, Kilmer, Kretz, Kristiansen, Lantz, Linville, McCoy, McCune, McDonald, Moeller, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Priest, Quall, Roach, Roberts, Rodne, Schindler, Sells, Serben, Shabro, Simpson, Skinner, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams and Woods - 73.

Excused: Representative Schual-Berke - 1.

SECOND SUBSTITUTE SENATE BILL NO. 5202, as amended by the House, having filed received the necessary constitutional majority, was declared lost.

MESSAGE FROM THE SENATE

April 16, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendment to SUBSTITUTE SENATE BILL NO. 5902 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House receded from its position and passed to final passage SUBSTITUTE SENATE BILL NO. 5902 without the House's amendment.

Representatives Linville and Kristiansen spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5902 without the House's amendment.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5902, without House amendment and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Schual-Berke - 1.

SUBSTITUTE SENATE BILL NO. 5902, without House amendment, having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 20, 2005

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SENATE BILL NO. 5094 and asks the House to recede therefrom.

Thomas Hoemann, Secretary

There being no objection, the House receded from its position and passed to final passage ENGROSSED SENATE BILL NO. 5094 without the House's amendment.

Representatives Linville and Kristiansen spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5094 without the House's amendment.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5094, without House amendment and the bill passed the House by the following vote: Yeas - 57, Nays - 40, Absent - 0, Excused - 1.

Voting yea: Representatives Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson,

Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Linville, Lovick, McDermott, McDonald, McIntire, Miloscia, Moeller, Morris, Murray, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Santos, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Tom, Upthegrove, Wallace, Walsh, Williams, Wood and Mr. Speaker - 57.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Kilmer, Kretz, Kristiansen, Lantz, McCoy, McCune, Morrell, Newhouse, Orcutt, Pearson, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott and Woods - 40.

Excused: Representative Schual-Berke - 1.

ENGROSSED SENATE BILL NO. 5094, without House amendment having received the constitutional majority, was declared passed.

There being no objection, the House advanced to the sixth order of business.

SECOND READING

HOUSE BILL NO. 1066, By Representatives McDermott, Quall, P. Sullivan, Haigh, Hunter and Ormsby; by request of Governor Locke

Revising learning assistance program distribution formula.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives McDermott, Anderson, Cox and Talcott spoke in favor of passage of the bill.

Representatives Dunn, Ahern, Jarrett and Schindler spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of House Bill No. 1066.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1066 and the bill passed the House by the following vote: Yeas - 82, Nays - 15, Absent - 0, Excused - 1.

Voting yea: Representatives Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Campbell, Chase, Clements, Clibborn, Cody, Condotta, Conway, Curtis, Darneille, DeBolt, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roberts, Rodne, Santos, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 82.

Voting nay: Representatives Ahern, Buck, Buri, Chandler, Cox, Crouse, Dunn, Kretz, Kristiansen, Nixon, Orcutt, Pearson, Roach, Schindler and Sump - 15.

Excused: Representative Schual-Berke - 1.

HOUSE BILL NO. 1066, having received the necessary constitutional majority, was declared passed.

MESSAGES FROM THE SENATE

April 20, 2005

Mr. Speaker:

The Senate has passed:
ENGROSSED SUBSTITUTE SENATE BILL NO. 6091,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6103,
and the same is herewith transmitted.

Thomas Hoemann, Secretary

April 20, 2005

Mr. Speaker:

The President has signed:
SUBSTITUTE SENATE BILL NO. 5101,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5111,
SUBSTITUTE SENATE BILL NO. 5256,
SUBSTITUTE SENATE BILL NO. 5492,
SENATE BILL NO. 5948,
SUBSTITUTE SENATE BILL NO. 5999,
and the same are herewith transmitted.

Thomas Hoemann, Secretary

SECOND READING

HOUSE BILL NO. 1240, By Representatives Kessler and DeBolt

Funding the development of an automated system to process real estate excise taxes.

The bill was read the second time.

There being no objection, Second Substitute House Bill No. 1240 was substituted for House Bill No. 1240 and the second substitute bill was placed on the second reading calendar.

SECOND SUBSTITUTE HOUSE BILL NO. 1240 was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Kessler and McIntire spoke in favor of passage of the bill.

Representative Orcutt spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1240.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1240 and the bill passed the House by the following vote: Yeas - 52, Nays - 46, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Upthegrove, Williams, Wood and Mr. Speaker - 52.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, Linville, McCune, McDonald, Morris, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump, Talcott, Tom, Wallace, Walsh and Woods - 46.

SECOND SUBSTITUTE HOUSE BILL NO. 1240, having received the necessary constitutional majority, was declared passed.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5432, By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Spanel, Swecker, Poulsen, Doumit, Regala, Rockefeller, Pridemore, Haugen, Kohl-Welles, Fraser, Jacobsen, Shin and Kline)

Creating the citizens' oil spill advisory council. (REVISED FOR ENGROSSED: Creating the oil spill advisory council.)

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Natural Resources, Ecology & Parks was not adopted. (For committee amendment, see Journal, 82nd Day, April 1, 2005.)

Representative Williams moved the adoption of amendment (546):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 90.56.005 and 2004 c 226 s 2 are each amended to read as follows:

(1) The legislature declares that ((~~the increasing reliance on~~)) water borne transportation as a source of supply for oil and hazardous substances poses special concern for the state of Washington. Each year billions of gallons of crude oil and refined petroleum products are transported as cargo and fuel by vessels on the navigable waters of the state. These shipments are expected to increase in the coming years. Vessels transporting oil into Washington travel on some of the most unique and special marine environments in the United States. These marine environments are a source of natural beauty, recreation, and economic livelihood for many residents of this state. As a result, the state has an obligation to ensure the citizens of the state that the waters of the state will be protected from oil spills.

(2) The legislature finds that prevention is the best method to protect the unique and special marine environments in this state. The technology for containing and cleaning up a spill of oil or hazardous substances is ((~~in the early stages of development~~)) at best only partially effective. Preventing spills is more protective of the environment and more cost-effective when all the response and damage costs associated with responding to a spill are considered. Therefore, the legislature finds that the primary objective of the state is to ((~~adopt~~)) achieve a zero spills strategy to prevent any oil or hazardous substances from entering waters of the state.

(3) The legislature also finds that:

(a) Recent accidents in Washington, Alaska, southern California, Texas, Pennsylvania, and other parts of the nation have shown that the transportation, transfer, and storage of oil have caused significant damage to the marine environment;

(b) Even with the best efforts, it is nearly impossible to remove all oil that is spilled into the water, and average removal rates are only fourteen percent;

(c) Washington's navigable waters are treasured environmental and economic resources that the state cannot afford to place at undue risk from an oil spill; ((~~and~~))

(d) The state has a fundamental responsibility, as the trustee of the state's natural resources and the protector of public health and the environment to prevent the spill of oil; and

(e) In section 5002 of the federal oil pollution act of 1990, the United States congress found that many people believed that complacency on the part of industry and government was one of the contributing factors to the Exxon Valdez spill and, further, that one method to combat this complacency is to involve local citizens in the monitoring and oversight of oil spill plans. Congress also found that a mechanism should be established that fosters the long-term partnership of industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals. Moreover, congress concluded that, in addition to Alaska, a program of citizen monitoring and oversight should be established in other major crude oil terminals in the United

States because recent oil spills indicate that the safe transportation of oil is a national problem.

(4) In order to establish a comprehensive prevention and response program to protect Washington's waters and natural resources from spills of oil, it is the purpose of this chapter:

(a) To establish state agency expertise in marine safety and to centralize state activities in spill prevention and response activities;

(b) To prevent spills of oil and to promote programs that reduce the risk of both catastrophic and small chronic spills;

(c) To ensure that responsible parties are liable, and have the resources and ability, to respond to spills and provide compensation for all costs and damages;

(d) To provide for state spill response and wildlife rescue planning and implementation;

(e) To support and complement the federal oil pollution act of 1990 and other federal law, especially those provisions relating to the national contingency plan for cleanup of oil spills and discharges, including provisions relating to the responsibilities of state agencies designated as natural resource trustees. The legislature intends this chapter to be interpreted and implemented in a manner consistent with federal law;

(f) To provide broad powers of regulation to the department of ecology relating to spill prevention and response;

(g) To provide for an independent ((~~oversight board~~)) oil spill advisory council to review on an ongoing basis the adequacy of oil spill prevention, preparedness, and response activities in this state; and

(h) To provide an adequate funding source for state response and prevention programs.

NEW SECTION. **Sec. 2.** A new section is added to chapter 90.56 RCW to read as follows:

(1)(a) There is established in the office of the governor the oil spill advisory council.

(b) The primary purpose of the council is to maintain the state's vigilance in, by ensuring an emphasis on, the prevention of oil spills to marine waters, while recognizing the importance of also improving preparedness and response.

(c) The council shall be an advisory body only.

(2)(a) In addition to members appointed under (b) of this subsection, the council is composed of the chair-facilitator and sixteen members representing various interests as follows:

(i) Three representatives of environmental organizations;

(ii) One representative of commercial shellfish interests;

(iii) One representative of commercial fisheries that primarily fishes in Washington waters;

(iv) One representative of marine recreation;

(v) One representative of tourism interests;

(vi) Three representatives of county government from counties bordering Puget Sound, the Columbia river/Pacific Ocean, and the Strait of Juan de Fuca/San Juan Islands;

(vii) One representative of marine labor;

(viii) Two representatives of marine trade interests;

(ix) One representative of major oil facilities;

(x) One representative of public ports; and

(xi) An individual who resides on a shoreline who has an interest, experience, and familiarity in the protection of water quality.

(b) In addition to the members identified in this subsection, the governor shall invite the participation of tribal governments through the appointment of two representatives to the council.

(3) Appointments to the council shall reflect a geographical balance and the diversity of populations within the areas potentially affected by oil spills to state waters.

(4) Members shall be appointed by the governor and shall serve four-year terms, except the initial members appointed to the council. Initial members to the council shall be appointed as follows: Six shall serve two-year terms, six shall serve three-year terms, and seven shall serve four-year terms. Vacancies shall be filled by appointment in the same manner as the original appointment for the remainder of the unexpired term of the position vacated. Members serve at the pleasure of the governor.

(5) The governor shall appoint a chair-facilitator who shall serve as a nonvoting member of the council. The chair shall not be an employee of a state agency, nor shall the chair have a financial interest in matters relating to oil spill prevention, preparedness, and response. The chair shall convene the council at least four times per year. At least one meeting per year shall be held in a Columbia river community, an ocean coastal community, and a Puget Sound community. The chair shall consult with councilmembers in setting agendas and determining meeting times and locations.

(6) All members shall be reimbursed for travel expenses while attending meetings of the council or technical advisory committees as provided in RCW 43.03.050 and 43.03.060. Members of the council identified in subsection (2)(a)(i), (ii), (iii), (iv), (v), (vi), (vii), and (xi) of this section shall be compensated on a per diem basis as a class two group according to RCW 43.03.230.

(7) The first meeting of the council shall be convened by the governor or the governor's designee. Other meetings may be convened by a vote of at least a majority of the voting members of the council, or by call of the chair. All meetings are subject to the open public meetings act. The council shall maintain minutes of all meetings.

(8) To the extent possible, all decisions of the council shall be by the consensus of the members. If consensus is not possible, nine voting members of the council may call for a vote on a matter. When a vote is called, all decisions shall be determined by a majority vote of the voting members present. Two-thirds of the voting members are required to be present for a quorum for all votes. The subject matter of all votes and the vote tallies shall be recorded in the minutes of the council.

(9) The council may form subcommittees and technical advisory committees.

NEW SECTION. **Sec. 3.** A new section is added to chapter 90.56 RCW to read as follows:

(1) The duties of the council include:

(a) Selection and hiring of professional staff and expert consultants to support the work of the council;

(b) Early consultation with government decision makers in relation to the state's oil spill prevention, preparedness, and response programs, analyses, rule making, and related oil spill activities;

(c) Providing independent advice, expertise, research, monitoring, and assessment for review of and necessary improvements to the state's oil spill prevention, preparedness, and response programs, analyses, rule making, and other decisions, including those of the Northwest area committee, as well as the adequacy of funding for these programs;

(d) Monitoring and providing information to the public as well as state and federal agencies regarding state of the art oil spill prevention, preparedness, and response programs;

(e) Actively seeking public comments on and proposals for specific measures to improve the state's oil spill prevention,

preparedness, and response program, including measures to improve the effectiveness of the Northwest area committee;

(f) Evaluating incident response reports and making recommendations to the department regarding improvements;

(g) Consulting with the department on lessons learned and agency progress on necessary actions in response to lessons learned;

(h) Promoting opportunities for the public to become involved in oil spill response activities and provide assistance to community groups with an interest in oil spill prevention and response, and coordinating with the department on the development and implementation of a citizens' involvement plan;

(i) Serving as an advisory body to the department on matters relating to international, national, and regional issues concerning oil spill prevention, preparedness, and response, and providing a mechanism for stakeholder and public consideration of federal actions relating to oil spill preparedness, prevention, and response in or near the waters of the state with recommended changes or improvements in federal policies on these matters;

(j) Accepting moneys from appropriations, gifts, grants, or donations for the purposes of this section; and

(k) Any other activities necessary to maintain the state's vigilance in preventing oil spills.

(2) The council shall establish a work plan for accomplishing the duties identified in subsection (1) of this section.

(3) The council is not intended to address issues related to spills involving hazardous substances.

(4) By September 15, 2006, the council shall recommend to the governor and appropriate committees of the legislature, proposals for the long-term funding of the council's activities and for the long-term sustainable funding for oil spill preparedness, prevention, and response activities.

(5) By September 1st of each year, the council shall make recommendations for the continuing improvement of the state's oil spill prevention, preparedness, and response activities through a report to the governor, the director, and the appropriate committees of the senate and house of representatives.

Sec. 4. RCW 90.56.060 and 2004 c 226 s 4 are each amended to read as follows:

(1) The department shall prepare and annually update a statewide master oil and hazardous substance spill prevention and contingency plan. In preparing the plan, the department shall consult with an advisory committee representing diverse interests concerned with oil and hazardous substance spills, including the United States coast guard, the federal environmental protection agency, state agencies, local governments, port districts, private facilities, environmental organizations, oil companies, shipping companies, containment and cleanup contractors, tow companies, ((~~and~~)) hazardous substance manufacturers, and with the oil spill advisory council.

(2) The state master plan prepared under this section shall at a minimum:

(a) Take into consideration the elements of oil spill prevention and contingency plans approved or submitted for approval pursuant to this chapter and chapter 88.46 RCW and oil and hazardous substance spill contingency plans prepared pursuant to other state or federal law or prepared by federal agencies and regional entities;

(b) State the respective responsibilities as established by relevant statutes and rules of each of the following in the prevention of and the assessment, containment, and cleanup of a worst case spill of oil or hazardous substances into the environment of the state: (i) State agencies; (ii) local governments; (iii) appropriate federal agencies; (iv) facility operators; (v) property owners whose land or other property may be affected by the oil or hazardous substance spill; and (vi) other parties identified by the department as having an interest in or the resources to assist in the containment and cleanup of an oil or hazardous substance spill;

(c) State the respective responsibilities of the parties identified in (b) of this subsection in an emergency response;

(d) Identify actions necessary to reduce the likelihood of spills of oil and hazardous substances;

(e) Identify and obtain mapping of environmentally sensitive areas at particular risk to oil and hazardous substance spills;

(f) Establish an incident command system for responding to oil and hazardous substances spills; and

(g) Establish a process for immediately notifying affected tribes of any oil spill.

(3) In preparing and updating the state master plan, the department shall:

(a) Consult with federal, provincial, municipal, and community officials, other state agencies, the state of Oregon, and with representatives of affected regional organizations;

(b) Submit the draft plan to the public for review and comment;

(c) Submit to the appropriate standing committees of the legislature for review, not later than November 1st of each year, the plan and any annual revision of the plan; and

(d) Require or schedule unannounced oil spill drills as required by RCW 90.56.260 to test the sufficiency of oil spill contingency plans approved under RCW 90.56.210.

(4) The department shall evaluate the functions of advisory committees created by the department regarding oil spill prevention, preparedness, and response programs, and shall revise or eliminate those functions which are no longer necessary."

Correct the title.

Representative DeBolt moved the adoption of amendment (548) to amendment (546):

On page 3, line 18 of the amendment, after "established in the" strike "office of the governor" and insert "department"

Representative DeBolt spoke in favor of the adoption of the amendment to the amendment.

Representatives B. Sullivan and Anderson spoke against the adoption of the amendment to the amendment.

Division was demanded and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The results was 44 - YEAS; 54 -NAYS.

The amendment (548) to the amendment was not adopted.

The question before the House was the adoption of amendment (546) as amended.

Division was demanded and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The results was 57 - YEAS; 41 -NAYS.

Amendment (546) as amended was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives Williams, B. Sullivan and Cody spoke in favor of passage of the bill.

Representative Buck, Anderson, Orcutt, Ericksen, Clements and DeBolt spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5432, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5432, as amended by the House and the bill passed the House by the following vote: Yeas - 61, Nays - 37, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Ormsby, Pettigrew, Quall, Roach, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Upthegrove, Wallace, Williams, Wood, and Mr. Speaker - 61.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Jarrett, Kretz, Kristiansen, Newhouse, Orcutt, Pearson, Priest, Rodne, Schindler, Serben, Shabro, Skinner, Sump, Talcott, Tom, Walsh, and Woods - 37.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5432, as amended by the House, having received the necessary constitutional majority, was declared passed.

SENATE BILL NO. 6097, By Senators Prentice, Hewitt, Eide, Delvin, Doumit and Schoesler

Regarding other tobacco products.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives McIntire, Armstrong, Eickmeyer and Dunn spoke in favor of passage of the bill.

Representative Tom spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 6097.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 6097 and the bill passed the House by the following vote: Yeas - 79, Nays - 19, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Condotta, Conway, Cox, Crouse, Curtis, DeBolt, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Fromhold, Grant, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Linville, Lovick, McCoy, McCune, McDonald, McIntire, Morris, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Priest, Roach, Rodne, Santos, Schindler, Sells, Serben, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Upthegrove, Wallace, Williams, Wood, Woods and Mr. Speaker - 79.

Voting nay: Representatives Cody, Darneille, Dickerson, Flannigan, Green, Kagi, Lantz, McDermott, Miloscia, Moeller, Morrell, Murray, Pettigrew, Quall, Roberts, Schual-Berke, Shabro, Tom and Walsh - 19.

SENATE BILL NO. 6097, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on SENATE BILL NO. 6097.
JANEA HOLMQUIST, 13th District

STATEMENT FOR THE JOURNAL

I intended to vote NAY on SENATE BILL NO. 6097.
JOYCE MCDONALD, 25th District

ENGROSSED SUBSTITUTE SENATE BILL NO. 6050, By Senate Committee on Ways & Means (originally sponsored by Senators Parlette, Doumit, Morton and Mulliken)

Providing financial assistance to cities, towns, and counties.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Finance was not adopted. (For committee amendment(s), see Journal, 99th Day, April 18, 2005.)

With the consent of the House, amendment (577) was ruled out of order.

Representative Orcutt moved the adoption of amendment (580):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 79.64.110 and 2003 c 334 s 207 are each amended to read as follows:

Any moneys derived from the lease of state forest lands or from the sale of valuable materials, oils, gases, coal, minerals, or fossils from those lands, must be distributed as follows:

(1) State forest lands acquired through RCW 79.22.040 or by exchange for lands acquired through RCW 79.22.040:

(a) The expense incurred by the state for administration, reforestation, and protection, not to exceed twenty-five percent, which rate of percentage shall be determined by the board, must be returned to the forest development account in the state general fund.

(b) Any balance remaining must be paid to the county in which the land is located to be paid, distributed, and prorated, except as otherwise provided in this section, to the various funds in the same manner as general taxes are paid and distributed during the year of payment, except that no distribution may be made to the state general fund. Revenues that would otherwise be dedicated to the state general fund shall be deposited in the city-county assistance account created in section 2 of this act.

(c) Any balance remaining, paid to a county with a population of less than sixteen thousand, must first be applied to the reduction of any indebtedness existing in the current expense fund of the county during the year of payment.

(d) With regard to moneys remaining under this subsection (1), within seven working days of receipt of these moneys, the department shall certify to the state treasurer the amounts to be distributed to the counties. The state treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date.

(2) State forest lands acquired through RCW 79.22.010 or by exchange for lands acquired through RCW 79.22.010, except as provided in RCW 79.64.120:

(a) Fifty percent shall be placed in the forest development account.

(b) Fifty percent shall be prorated and distributed to the state general fund, to be dedicated for the benefit of the public schools, and the county in which the land is located according to the relative proportions of tax levies of all taxing districts in the county. The portion to be distributed to the state general fund shall be based on the regular school levy rate under RCW 84.52.065 and the levy rate for any maintenance and operation special school levies. With regard to the portion to be distributed to the counties, the department shall certify to the state treasurer the amounts to be distributed within seven working days of receipt of the money. The state treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date. The money distributed to the county must be paid, distributed, and prorated to the various other funds in the same manner as general taxes are paid and distributed during the year of payment.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.14 RCW to read as follows:

(1) The city-county assistance account is created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes provided in this section.

(2) Fifty percent of the receipts deposited in the city-county assistance account shall be allocated to counties, and the remainder shall be allocated to cities.

(3) Revenues allocated to counties shall be distributed as provided under this subsection.

(a) Except as provided in (b) and (c) of this subsection, the amount distributed to a county under this section shall be an amount equal to twenty-five percent of the greater of the amounts described under (a)(i) through (iii) of this subsection.

(i) For a county imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than the base amount from the tax in the measurement year, an amount from the city-county assistance account sufficient, when added to the amount of revenues received by the county in the measurement year, to equal the base amount. For the purposes of this subsection (3)(a)(i), "base amount" means two hundred fifty thousand dollars in the first distribution year. Thereafter, "base amount" means two hundred fifty thousand dollars increased by the rate of inflation as provided under subsection (5) of this section.

(ii)(A) For a county with an unincorporated population of one hundred thousand or less and imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than seventy percent of the statewide weighted average per capita level of revenues for the unincorporated areas of all counties in the measurement year as determined by the department, an amount from the city-county assistance account sufficient, when added to the per capita level of revenues for the unincorporated area received by the county in the measurement year, to equal seventy percent of the statewide weighted average per capita level of revenues for the unincorporated areas of all counties in the measurement year.

(B) For a county with an unincorporated population of more than one hundred thousand and imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than sixty-five percent of the statewide weighted average per capita level of revenues for the unincorporated areas of all counties in the measurement year as determined by the department, an amount from the city-county assistance account sufficient, when added to the per capita level of revenues for the unincorporated area received by the county in the measurement year, to equal sixty-five percent of the statewide weighted average per capita level of revenues for the unincorporated areas of all counties in the measurement year.

(iii)(A) For a county with an unincorporated population of fifteen thousand or less, an amount equal to the amount provided to the county for fiscal year 2005 by section 716, chapter 276, Laws of 2004.

(B) For a county with an unincorporated population of more than fifteen thousand and less than twenty-two thousand, and with respect to distributions made under this section in calendar years 2006 and 2007 only, an amount equal to the amount provided to the county for fiscal year 2005 by section 716, chapter 276, Laws of 2004.

(b) If funds in the city-county assistance account for allocation to the counties are inadequate to make the distributions in (a) of this

subsection, then the distributions shall be reduced ratably among the qualifying counties.

(c) If funds in the city-county assistance account for allocation to the counties exceed the amount necessary to make the distributions in (a) of this subsection, the excess funds shall be apportioned ratably among those counties receiving funds under this section and imposing the tax under RCW 82.14.030(1) at the maximum rate.

(4) Revenues allocated to cities shall be distributed as provided under this subsection.

(a) Except as provided in (c), (d), and (e) of this subsection, the amount distributed to a city under this section shall be an amount equal to twenty-five percent of the greater of the amounts described under (a)(i) through (iii) of this subsection. This subsection (4)(a) applies only to cities with a population of five thousand or less and with a per capita assessed value of taxable property in the measurement year less than twice the statewide average per capita assessed value of taxable property for all cities for the measurement year.

(i) For a city imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than fifty-five percent of the statewide weighted average per capita level of revenues for all cities in the measurement year as determined by the department, an amount from the city-county assistance account sufficient, when added to the per capita level of revenues received by the city in the measurement year, to equal fifty-five percent of the statewide weighted average per capita level of revenues for all cities in the measurement year.

(ii) An amount equal to the amount provided to the city for fiscal year 2005 by section 721, chapter 25, Laws of 2003 1st sp. sess.

(iii) For a city with a per capita assessed value of taxable property in the measurement year less than fifty percent of the statewide average per capita assessed value of taxable property for all cities in the measurement year as determined by the department, an amount determined by subtracting the city's per capita assessed value of taxable property in the measurement year from fifty percent of the statewide average per capita assessed value of taxable property for all cities in the measurement year, dividing that amount by one thousand, and multiplying the result by the city's population.

(b) Except as provided in (c), (d), and (e) of this subsection, the amount distributed to a city under this section shall be an amount equal to twenty-five percent of the greater of the amounts described under (b)(i) through (iii) of this subsection. This subsection (4)(b) applies only to cities with a population of more than five thousand and with a per capita assessed value of taxable property in the measurement year less than the statewide average per capita assessed value of taxable property for all cities for the measurement year.

(i) For a city imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than fifty percent of the statewide weighted average per capita level of revenues for all cities in the measurement year as determined by the department, an amount from the city-county assistance account sufficient, when added to the per capita level of revenues received by the city in the measurement year, to equal fifty percent of the statewide weighted average per capita level of revenues for all cities in the measurement year.

(ii) For distributions in calendar years 2006 and 2007 only, an amount equal to the amount provided to the city for fiscal year 2005 by section 721, chapter 25, Laws of 2003 1st sp. sess.

(iii) For a city with a per capita assessed value of taxable property in the measurement year less than fifty percent of the statewide average per capita assessed value of taxable property for all cities in the measurement year as determined by the department, an amount determined by subtracting the city's per capita assessed value of taxable property in the measurement year from fifty percent of the statewide average per capita assessed value of taxable property for all cities in the measurement year, dividing that amount by one thousand, and multiplying the result by the city's population.

(c) A city may not receive an amount in any distribution year that would cause cumulative distributions to the city under this section for the year to exceed one hundred thousand dollars, increased after the first distribution year by the rate of inflation as provided under subsection (5) of this section.

(d) If funds in the city-county assistance account for allocation to the cities are inadequate to make the distributions in (a) and (b) of this subsection, then the distributions shall be reduced ratably among the qualifying cities.

(e) If funds in the city-county assistance account for allocation to the cities exceed the amount necessary to make the distributions in (a) and (b) of this subsection, the excess funds shall be apportioned ratably among those cities receiving funds under this section and imposing the tax under RCW 82.14.030(1) at the maximum rate.

(f) This subsection (4) applies only to cities incorporated prior to the effective date of this section.

(5)(a) For the purpose of certifications under subsection (6) of this section, the department shall calculate the base amount in subsection (3)(a)(i) of this section and the amount in subsection (4)(c) of this section for distribution years after the first distribution year using an adjustment for inflation as defined in RCW 84.55.005.

(b) With respect to a city, town, or county to which or from which unincorporated territory is annexed during a measurement year, and for the purposes of calculating amounts for distribution under subsections (3) and (4) of this section based upon information from that year, the department shall utilize estimates of the population and assessed value of taxable property in the jurisdiction immediately prior to the annexation.

(6)(a) Distributions of the amounts provided under subsections (3) and (4) of this section shall be made quarterly beginning on January 1, 2006, based on receipts to the city-county assistance account as provided in (b) of this subsection. The department shall certify the amounts to be distributed under this section to the state treasurer. Amounts certified by the department are final and may not be appealed. The certification shall be made by January 1, 2006, for the January 1, 2006, distribution, and by April 1, 2006, for the April 1, 2006, distribution. The certification shall be made by June 1, 2006, with respect to the distributions occurring in the ensuing distribution year, and by June 1st of each year thereafter with respect to the distributions occurring in each subsequent distribution year.

(b) The quarterly distributions shall be made based on receipts to the city-county assistance account as follows:

(i) Any distribution made on January 1st shall be based on receipts to the account during the immediately preceding September, October, and November;

(ii) Any distribution made on April 1st shall be based on receipts to the account during the immediately preceding December, January, and February;

(iii) Any distribution made on July 1st shall be based on receipts to the account during the immediately preceding March, April, and May; and

(iv) Any distribution made on October 1st shall be based on receipts to the account during the immediately preceding June, July, and August.

(7) All distributions to local governments from the city-county assistance account constitute increases in state distributions of revenue to political subdivisions for purposes of state reimbursement

for the costs of new programs and increases in service levels under RCW 43.135.060, including any claims or litigation pending against the state on or after January 1, 2005.

(8) For the purposes of this section, the following definitions apply:

(a) Except for the initial distribution year, "distribution year" means the twelve-month period beginning July 1st. For the purposes of the initial distribution year, "distribution year" means the twelve-month period ending June 30, 2006.

(b) "Measurement year" means the calendar year prior to the year in which the certification under subsection (6) of this section is made.

(c) "Population" means the population for the county or city as determined by the office of financial management for the measurement year.

(d) "City" means city or town.

NEW SECTION. **Sec. 3.** A new section is added to chapter 44.28 RCW to read as follows:

During calendar year 2008, the joint legislative audit and review committee shall review the distributions to cities and counties under section 2 of this act to determine the extent to which the distributions target the needs of cities and counties for which the repeal of the motor vehicle excise tax had the greatest fiscal impact. In conducting the study, the committee shall solicit input from the cities and counties. The department of revenue and the state treasurer shall provide the committee with any data within their purview that the committee considers necessary to conduct the review. The committee shall report to the legislature the results of its findings, and any recommendations for changes to the distribution formulas under section 2 of this act, by December 31, 2008.

Sec. 4. RCW 43.84.092 and 2003 c 361 s 602, 2003 c 324 s 1, 2003 c 150 s 2, and 2003 c 48 s 2 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the city-county assistance account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account,

the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 5. RCW 43.84.092 and 2004 c 242 s 60 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the city-county assistance account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the regional transportation investment district account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2

and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 6.** This act takes effect August 1, 2005, except for section 5 of this act which takes effect July 1, 2006.

NEW SECTION. **Sec. 7.** Section 4 of this act expires July 1, 2006."

Correct the title.

Representatives Orcutt, Armstrong and Ericksen spoke in favor of the adoption of the amendment.

Representative McIntire spoke against the adoption of the amendment.

Division was demanded and the demand was sustained. The Speaker (Representative Lovick presiding) divided the House. The results was 44 - YEAS; 54 -NAYS.

The amendment was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives McIntire, Takko, Moeller, Haigh and Linville spoke in favor of passage of the bill.

Representatives Orcutt, Armstrong, Ericksen and Clements spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 6050.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 6050 and the bill passed the House by the following vote: Yeas - 61, Nays - 37, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Armstrong, Blake, Buri, Chase, Clements, Clibborn, Cody, Conway, Cox, Curtis, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hunt, Hunter, Kagi, Kenney, Kessler, Kirby, Kretz, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, McIntire, Moeller, Morrell, Murray, Newhouse, Ormsby, Pettigrew, Quall, Roberts, Santos, Sells, Serben, Simpson, Skinner, Sommers, Sullivan, P., Sump, Takko, Talcott, Walsh, Williams, Wood and Mr. Speaker - 61.

Voting nay: Representatives Ahern, Alexander, Anderson, Bailey, Buck, Campbell, Chandler, Condotta, Crouse, DeBolt, Dunn, Hinkle, Holmquist, Hudgins, Jarrett, Kilmer, Kristiansen, McCune, Miloscia, Morris, Nixon, O'Brien, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Schual-Berke, Shabro, Springer, Strow, Sullivan, B., Tom, Upthegrove, Wallace and Woods - 37.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6050, having received the necessary constitutional majority, was declared passed.

There being no objection, the House advanced to the eleventh order of business.

There being no objection, the House adjourned until 10:00 a.m., April 21, 2005, the 102nd Day of the Regular Session.

FRANK CHOPP, Speaker

RICHARD NAFZIGER, Chief Clerk

HOUSE OF REPRESENTATIVES (Representative Lovick presiding)