SIXTY-FIRST LEGISLATURE - REGULAR SESSION

SEVENTY FOURTH DAY

House Chamber, Olympia, Thursday, March 26, 2009

The House was called to order at 9:55 a.m. by the Speaker (Representative Quall presiding).

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

INTRODUCTION AND FIRST READING

HB 2325 by Representative Ericks

AN ACT Relating to community custody; amending RCW 9.94A.701, 9.94A.707, and 9.94A.850; reenacting and amending RCW 9.94A.030 and 9.94A.715; and providing an effective date.

Referred to Committee on Ways & Means.

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

REPORTS OF STANDING COMMITTEES

March 24, 2009

SSB 5026 Prime Sponsor, Committee on Human Services & Corrections: Regarding the collection of biological samples for DNA identification analysis from individuals whose convictions are the result of a plea agreement. Reported by Committee on Public Safety & Emergency Preparedness

MAJORITY recommendation: Do pass. Signed by Representatives Hurst, Chair; O'Brien, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Goodman; Kirby and Ross.

Referred to Committee on General Government Appropriations.

March 23, 2009

SB 5028 Prime Sponsor, Senator Haugen: Transferring jurisdictional route transfer responsibilities from the transportation improvement board to the transportation commission. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chair; Liias, Vice Chair; Campbell; Driscoll; Eddy; Finn; Flannigan; Moeller; Rolfes; Sells; Simpson; Springer; Takko; Upthegrove; Wallace; Williams and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong; Cox; Ericksen; Herrera; Johnson; Klippert; Kristiansen and Shea.

Passed to Committee on Rules for second reading.

March 24, 2009

SSB 5035 Prime Sponsor, Committee on Government Operations & Elections: Improving veterans' access to services. Reported by Committee on State Government & Tribal Affairs

MAJORITY recommendation: Do pass. Signed by Representatives Hunt, Chair; Armstrong, Ranking Minority Member; Alexander; Flannigan; Hurst and Miloscia.

Passed to Committee on Rules for second reading.

March 23, 2009

2SSB 5045 Prime Sponsor, Committee on Ways & Means: Regarding community revitalization financing. Reported by Committee on Community & Economic Development & Trade

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**PART I**
LOCAL REVITALIZATION FINANCING
--GENERAL PROVISIONS

NEW SECTION. Sec. 101. The legislature recognizes that the state as a whole benefits from investment in public infrastructure because it promotes community and economic development. Public investment stimulates business activity and helps create jobs, stimulates the redevelopment of brownfields and blighted areas in the inner city, lowers the cost of housing, and promotes efficient land use. The legislature finds that these activities generate revenue for the state and that it is in the public interest to invest in these projects through a credit against the state sales and use tax to those local governments that can demonstrate the expected returns to the state.

NEW SECTION. Sec. 102. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Annual state contribution limit" means two million five hundred thousand dollars statewide per fiscal year.

(2) "Assessed value" means the valuation of taxable real property as placed on the last completed assessment roll.

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

(4) "Fiscal year" means the twelve-month period beginning July 1st and ending the following June 30th.

(5) "Local government" means any city, town, county, and port district.

(6) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local revitalization financing.

(7) "Local revitalization financing" means the use of revenues from local public sources, and revenues received from the local option sales and use tax authorized in section 601 of this act, dedicated to pay the principal and interest on bonds authorized under section 701 of this act.

(8) "Local sales and use tax increment" means the estimated annual increase in local sales and use taxes as determined and anticipated by the local government in the calendar years following the approval of the revitalization area by the department from taxable activity within the revitalization area.

(9) "Local sales and use taxes" means local revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030.

(10) "Ordinance" means any appropriate method of taking legislative action by a local government.

(11) "Participating local government" means a local government having a revitalization area within its geographic boundaries that has taken action as provided in section 107(1) of this act to allow the use of all or some of its local sales and use tax increment or other revenues from local public sources dedicated for local revitalization financing.

(12) "Participating taxing district" means a local government having a revitalization area within its geographic boundaries that has not taken action as provided in section 106(2) of this act.

(13) "Property tax allocation revenue base value" means the assessed value of real property located within a revitalization area, less the property tax allocation revenue value.

(14)(a)(i) "Property tax allocation revenue value" means seventy-five percent of any increase in the assessed value of real property in a revitalization area resulting from:

(A) The placement of new construction, improvements to property, or both, on the assessment roll, where the new construction and improvements are initiated after the revitalization area is approved by the department;

(B) The cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.14.020, and the new housing construction, conversion, and rehabilitation improvements are initiated after the revitalization area is approved by the department;

(C) The cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.26.070, and the rehabilitation is initiated after the revitalization area is approved by the department.

(ii) Increases in the assessed value of real property in a revitalization area resulting from (a)(i)(A) through (C) of this subsection are included in the property tax allocation revenue value in the initial year. These same amounts are also included in the property tax allocation revenue value in subsequent years unless the property becomes exempt from property taxation.

(b) "Property tax allocation revenue value" includes seventy-five percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.

(c) Except as provided in (b) of this subsection, "property tax allocation revenue value" does not include any increase in the assessed value of real property after the initial year.

(d) There is no property tax allocation revenue value if the assessed value of real property in a revitalization area has not increased as a result of any of the reasons specified in (a)(i)(A) through (C) of this subsection.

(e) For purposes of this subsection, "initial year" means:

(i) For new construction and improvements to property added to the assessment roll, the year during which the new construction and improvements are initially placed on the assessment roll;

(ii) For the cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when the cost is treated as new construction for purposes of levying taxes for collection in the following year; and

(iii) For the cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year.

(15) "Public improvement costs" means the costs of:

(a) Design, planning, acquisition, including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements;

(b) Demolishing, relocating, maintaining, and operating property pending construction of public improvements;

(c) Relocating utilities as a result of public improvements;

(d) Financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; and

(e) Administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of local revitalization financing to fund the costs of the public improvements.

(16) "Public improvements" means:

(a) Infrastructure improvements within the revitalization area that include:

(i) Street, road, bridge, and rail construction and maintenance;

(ii) Water and sewer system construction and improvements;

(iii) Sidewalks, streetlights, landscaping, and streetscaping;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities of a transit authority;

(vi) Park facilities, recreational areas, and environmental remediation;

(vii) Storm water and drainage management systems;

(viii) Electric, gas, fiber, and other utility infrastructures; and

(b) Expenditures for any of the following purposes:

(i) Providing environmental analysis, professional management, planning, and promotion within the revitalization area, including the management and promotion of retail trade activities in the revitalization area;

(ii) Providing maintenance and security for common or public areas in the revitalization area; or

(iii) Historic preservation activities authorized under RCW 35.21.395.

(17) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

(18) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (a) Regular property taxes levied by public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; (b) regular property taxes levied by the state for the support of common schools under RCW 84.52.065; and (c) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose. "Regular property taxes" do not include excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043.

(19)(a) "Revenues from local public sources" means:

(i) The local sales and use tax amounts received as a result of interlocal agreement, local sales and use tax amounts from sponsoring local governments based on its local sales and use tax increment, and local property tax allocation revenues, which are dedicated by a sponsoring local government, participating local governments, and participating taxing districts, for payment of bonds under section 701 of this act; and

(ii) Any other local revenues, except as provided in (b) of this subsection, including revenues derived from federal and private sources, which are dedicated for the payment of bonds under section 701 of this act.

(b) Revenues from local public sources do not include any local funds derived from state grants, state loans, or any other state moneys including any local sales and use taxes credited against the state sales and use taxes imposed under chapter 82.08 or 82.12 RCW.

(20) "Revitalization area" means the geographic area adopted by a sponsoring local government and approved by the department, from which local sales and use tax increments are estimated and property tax allocation revenues are derived for local revitalization financing.

(21) "Sponsoring local government" means a city, town, county, or any combination thereof, that adopts a revitalization area and applies to the department to use local revitalization financing.

(22) "State contribution" means the lesser of:

(a) Five hundred thousand dollars;

(b) The project award amount approved by the department as provided in section 401 of this act; or

(c) The total amount of revenues from local public sources dedicated in the preceding calendar year to the payment of principal and interest on bonds issued under section 701 of this act.

(23) "State property tax increment" means the estimated amount of annual tax revenues estimated to be received by the state from the imposition of property taxes levied by the state for the support of common schools under RCW 84.52.065 on the property tax allocation revenue value, as determined by the sponsoring local government in an application under section 401 of this act.

(24) "State sales and use tax increment" means the estimated amount of annual increase in state sales and use taxes to be received by the state from taxable activity within the revitalization area in the years following the approval of the revitalization area by the department as determined by the sponsoring local government in an application under section 401 of this act.

(25) "State sales and use taxes" means state retail sales and use taxes under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1), less the amount of tax distributions from all local retail sales and use taxes, other than the local sales and use taxes authorized by section 601 of this act for the applicable revitalization area, imposed on the same taxable events that are credited against the state retail sales and use taxes under RCW 82.08.020(1) and 82.12.020.

(26) "Taxing district" means a government entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved revitalization area.

NEW SECTION. Sec. 103. CONDITIONS. A local government may finance public improvements using local revitalization financing subject to the following conditions:

(1) The local government has adopted an ordinance designating a revitalization area within its boundaries and specified the public improvements proposed to be financed in whole or in part with the use of local revitalization financing;

(2) The public improvements proposed to be financed in whole or in part using local revitalization financing are expected to encourage private development within the revitalization area and to increase the fair market value of real property within the revitalization area;

(3) The local government has entered into a contract with a private developer relating to the development of private improvements within the revitalization area or has received a letter of intent from a private developer relating to the developer's plans for the development of private improvements within the revitalization area;

(4) Private development that is anticipated to occur within the revitalization area, as a result of the public improvements, will be consistent with the countywide planning policy adopted by the county under RCW 36.70A.210 and the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW;

(5) The local government may not use local revitalization financing to finance the costs associated with the financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, and reequipping of public facilities funded with taxes collected under RCW 82.14.048 or 82.14.390;

(6) The governing body of the local government must make a finding that local revitalization financing:

(a) Will not be used for the purpose of relocating a business from outside the revitalization area, but within this state, into the revitalization area unless convincing evidence is provided that the firm being relocated would otherwise leave the state;

(b) Will improve the viability of existing business entities within the revitalization area; and

(c) Will be used exclusively in areas within the jurisdiction of the local government deemed in need of either economic development or redevelopment, or both, and absent the financing available under this chapter and sections 601 and 602 of this act the proposed economic development or redevelopment would more than likely not occur; and

(7) The governing body of the local government finds that the public improvements proposed to be financed in whole or in part using local revitalization financing are reasonably likely to:

(a) Increase private investment within the revitalization area;

(b) Increase employment within the revitalization area; and

(c) Generate, over the period of time that the local sales and use tax will be imposed under section 601 of this act, increases in state and local property, sales, and use tax revenues that are equal to or greater than the respective state and local contributions made under this chapter.

NEW SECTION. Sec. 104. CREATING A REVITALIZATION AREA. (1) Before adopting an ordinance creating the revitalization area, a sponsoring local government must:

(a) Provide notice to all taxing districts and local governments with geographic boundaries within the proposed revitalization area of the sponsoring local government's intent to create a revitalization

area. Notice must be provided in writing to the governing body of the taxing districts and local governments at least thirty days in advance of the public hearing as required by (b) of this subsection. The notice must include at least the following information:

(i) The name of the proposed revitalization area;

(ii) The date for the public hearing as required by (b) of this subsection;

(iii) The earliest anticipated date when the sponsoring local government will take action to adopt the proposed revitalization area; and

(iv) The name of a contact person with phone number of the sponsoring local government and mailing address where a copy of an ordinance adopted under sections 105 and 106 of this act may be sent; and

(b) Hold a public hearing on the proposed financing of the public improvements in whole or in part with local revitalization financing. Notice of the public hearing must be published in a legal newspaper of general circulation within the proposed revitalization area at least ten days before the public hearing and posted in at least six conspicuous public places located in the proposed revitalization area. Notices must describe the contemplated public improvements, estimate the costs of the public improvements, describe the portion of the costs of the public improvements to be borne by local revitalization financing, describe any other sources of revenue to finance the public improvements, describe the boundaries of the proposed revitalization area, and estimate the period during which local revitalization financing is contemplated to be used. The public hearing may be held by either the governing body of the sponsoring local government, or a committee of the governing body that includes at least a majority of the whole governing body.

(2) To create a revitalization area, a sponsoring local government must adopt an ordinance establishing the revitalization area that:

(a) Describes the public improvements proposed to be made in the revitalization area;

(b) Describes the boundaries of the revitalization area, subject to the limitations in section 105 of this act;

(c) Estimates the cost of the proposed public improvements and the portion of these costs to be financed by local revitalization financing;

(d) Estimates the time during which local property tax allocation revenues, and other revenues from local public sources, such as amounts of local sales and use taxes from participating local governments, are to be used for local revitalization financing;

(e) Provides the date when the use of local property tax allocation revenues will commence and a list of the taxing districts that have not adopted an ordinance as described in section 106 of this act to be removed as a participating taxing district;

(f) Finds that all of the requirements in section 103 of this act are met;

(g) Provides the anticipated rate of sales and use tax under section 601 of this act that the local government will impose if awarded a state contribution under section 401 of this act;

(h) Provides the anticipated date when the criteria for the sales and use tax in section 601 of this act will be met and the anticipated date when the sales and use tax in section 601 of this act will be imposed.

(3) The sponsoring local government must deliver a certified copy of the adopted ordinance to the county treasurer, the governing body of each participating taxing authority and participating taxing district within which the revitalization area is located, and the department.

NEW SECTION. Sec. 105. LIMITATIONS ON REVITALIZATION AREAS. The designation of a revitalization area is subject to the following limitations:

(1) No revitalization area may have within its geographic boundaries any part of a hospital benefit zone under chapter 39.100 RCW, any part of a revenue development area created under chapter 39.102 RCW, any part of an increment area under chapter 39.89 RCW, or any part of another revitalization area under this chapter;

(2) A revitalization area is limited to contiguous tracts, lots, pieces, or parcels of land without the creation of islands of property not included in the revitalization area;

(3) The boundaries may not be drawn to purposely exclude parcels where economic growth is unlikely to occur;

(4) The public improvements financed through bonds issued under section 701 of this act must be located in the revitalization area;

(5) A revitalization area cannot comprise an area containing more than twenty-five percent of the total assessed value of the taxable real property within the boundaries of the sponsoring local government at the time the revitalization area is created;

(6) The boundaries of the revitalization area may not be changed for the time period that local property tax allocation revenues, local sales and use taxes of participating local governments, and the local sales and use tax under section 601 of this act are used to pay bonds issued under section 701 of this act; and

(7) A revitalization area must be geographically restricted to the location of the public improvement and adjacent locations that the sponsoring local government finds to have a high likelihood of receiving direct positive business and economic impacts due to the public improvement, such as a neighborhood or a block.

NEW SECTION. Sec. 106. OPTING OUT AS A PARTICIPATING TAXING DISTRICT. (1) Participating taxing districts must allow the use of all of their local property tax allocation revenues for local revitalization financing.

(2)(a) If a taxing district does not want to allow the use of its property tax revenues for the local revitalization financing of public improvements in a revitalization area, its governing body must adopt an ordinance to remove itself as a participating taxing district and must notify the sponsoring local government.

(b) The taxing district must provide a copy of the adopted ordinance and notice to the sponsoring local government creating the revitalization area before the anticipated date that the sponsoring local government proposes to adopt the ordinance creating the revitalization area as provided in the notice required by section 104(1)(a) of this act.

NEW SECTION. Sec. 107. OPTING IN OR OUT AS A PARTICIPATING LOCAL GOVERNMENT. (1) A participating local government must enter into an interlocal agreement as provided in chapter 39.34 RCW to participate in local revitalization financing with the sponsoring local government.

(2)(a) If a local government that imposes a sales and use tax under RCW 82.14.030 does not want to participate in the local revitalization financing of public improvements in a revitalization area, its governing body must adopt an ordinance and notify the sponsoring local government that the taxing authority will not be a participating local government.

(b) The local government must provide a copy of the adopted ordinance and the notice to the sponsoring local government creating the revitalization area before the anticipated date that the sponsoring local government proposes to adopt an ordinance creating the revitalization area as provided in the notice required by section 104(1)(a) of this act.

PART II
LOCAL REVITALIZATION FINANCING
USE OF LOCAL PROPERTY TAX ALLOCATION
REVENUES TO PAY FOR
THE COST OF PUBLIC IMPROVEMENTS

NEW SECTION. Sec. 201. LOCAL PROPERTY TAX ALLOCATION REVENUES. (1) Commencing in the second calendar year following the creation of a revitalization area by a sponsoring local government, the county treasurer shall distribute receipts from regular taxes imposed on real property located in the revitalization area as follows:

(a) Each participating taxing district and the sponsoring local government must receive that portion of its regular property taxes produced by the rate of tax levied by or for the taxing district on the property tax allocation revenue base value for that local revitalization financing project in the taxing district; and

(b) The sponsoring local government must receive an additional portion of the regular property taxes levied by it and by or for each participating taxing district upon the property tax allocation revenue value within the revitalization area. However, if there is no property tax allocation revenue value, the sponsoring local government may not receive any additional regular property taxes under this subsection (1)(b). The sponsoring local government may agree to receive less than the full amount of the additional portion of regular property taxes under this subsection (1)(b) as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of these tax receipts shall be allocated to the participating taxing districts that levied regular property taxes, or have regular property taxes levied for them, in the revitalization area for collection that year in proportion to their regular tax levy rates for collection that year. The sponsoring local government may request that the treasurer transfer this additional portion of the property taxes to its designated agent. The portion of the tax receipts distributed to the sponsoring local government or its agent under this subsection (1)(b) may only be expended to finance public improvement costs associated with the public improvements financed in whole or in part by local revitalization financing.

(2) The county assessor shall determine the property tax allocation revenue value and property tax allocation revenue base value. This section does not authorize revaluations of real property by the assessor for property taxation that are not made in accordance with the assessor's revaluation plan under chapter 84.41 RCW or under other authorized revaluation procedures.

(3) The distribution of local property tax allocation revenue to the sponsoring local government must cease when local property tax allocation revenues are no longer obligated to pay the costs of the public improvements. Any excess local property tax allocation revenues, and earnings on the revenues, remaining at the time the distribution of local property tax allocation revenue terminates, must be returned to the county treasurer and distributed to the participating taxing districts that imposed regular property taxes, or had regular property taxes imposed for it, in the revitalization area for collection that year, in proportion to the rates of their regular property tax levies for collection that year.

(4) The allocation to the revitalization area of that portion of the sponsoring local government's and each participating taxing district's regular property taxes levied upon the property tax allocation revenue value within that revitalization area is declared to be a public purpose of and benefit to the sponsoring local government and each participating taxing district.

(5) The distribution of local property tax allocation revenues under this section may not affect or be deemed to affect the rate of taxes levied by or within any sponsoring local government and participating taxing district or the consistency of any such levies with the uniformity requirement of Article VII, section 1 of the state Constitution.

PART III
LOCAL REVITALIZATION FINANCING
USE OF LOCAL SALES AND USE TAX
INCREMENTS TO PAY FOR
THE COST OF PUBLIC IMPROVEMENTS

NEW SECTION. Sec. 301. LOCAL SALES AND USE TAX INCREMENTS. (1) A sponsoring local government may use annually local sales and use tax amounts equal to some or all of its local sales and use tax increments to finance public improvements in the revitalization area. The amounts of local sales and use tax dedicated by a participating local government must begin and cease on the dates specified in an interlocal agreement authorized in chapter 39.34 RCW. Sponsoring local governments and participating local governments are authorized to allocate some or all of their local sales and use tax increment to the sponsoring local government as provided by section 107(1) of this act.

(2) The department must assist sponsoring local governments in estimating sales and use tax revenues from estimated taxable activity in the proposed or adopted revitalization area. The sponsoring local government must provide the department with accurate information describing the geographical boundaries of the revitalization area in an electronic format or in a manner as otherwise prescribed by the department.

PART IV
LOCAL REVITALIZATION FINANCING
--STATE CONTRIBUTION

NEW SECTION. Sec. 401. APPLICATION PROCESS--DEPARTMENT OF REVENUE APPROVAL. (1) Prior to applying to the department to receive a state contribution, a sponsoring local government shall adopt a revitalization area within the limitations in section 105 of this act and in accordance with section 104 of this act.

(2) As a condition to imposing a sales and use tax under section 601 of this act, a sponsoring local government must apply to the department and be approved for a project award amount. The application must be in a form and manner prescribed by the department and include, but not be limited to:

(a) Information establishing that over the period of time that the local sales and use tax will be imposed under section 601 of this act, increases in state and local property, sales, and use tax revenues as a result of public improvements in the revitalization area will be equal to or greater than the respective state and local contributions made under this chapter;

(b) Information demonstrating that the sponsoring local government will meet the requirements necessary to receive the full amount of state contribution it is requesting on an annual basis;

(c) The amount of state contribution it is requesting;

(d) The anticipated effective date for imposing the tax under section 601 of this act;

(e) The estimated number of years that the tax will be imposed;

(f) The anticipated rate of tax to be imposed under section 601 of this act, subject to the rate-setting conditions in section 601(3) of

this act, should the sponsoring local government be approved for a project award; and

(g) The anticipated date when bonds under section 701 of this act will be issued.

The department shall make available electronic forms to be used for this purpose. As part of the application, each applicant must provide to the department a copy of the adopted ordinance creating the revitalization area as required in section 104 of this act, copies of any adopted interlocal agreements from participating local governments, and any notices from taxing districts that elect not to be a participating taxing district.

(3)(a) Project awards must be determined on:

(i) A first-come basis for applications completed in their entirety and submitted electronically;

(ii) The availability of a state contribution;

(iii) Whether the sponsoring local government would be able to generate enough tax revenue under section 601 of this act to generate the amount of project award requested.

(b) The total of all project awards may not exceed the annual state contribution limit.

(c) If the level of available state contribution is less than the amount requested by the next available applicant, the applicant must be given the first opportunity to accept the lesser amount of state contribution but only if the applicant produces a new application within sixty days of being notified by the department and the application describes the impact on the proposed project as a result of the lesser award in addition to new application information outlined in subsection (2) of this section.

(d) Applications that are not approved for a project award due to lack of available state contribution must be retained on file by the department in order of the date of their receipt.

(e) Once total project awards reach the amount of annual state contribution limit, no more applications will be accepted.

(f) If the annual contribution limit is increased, applications will be accepted again beginning sixty days after the effective date of the increase. However, in the time period before any new applications are accepted, all sponsoring local governments with a complete application already on file with the department must be provided an opportunity to either withdraw their application or update the information in the application. The updated application must be for a project that is substantially the same as the project in the original application. The department must consider these applications, in the order originally submitted, for project awards prior to considering any new applications.

(4) The department shall notify the sponsoring local government of approval or denial of a project award within sixty days of the department's receipt of the sponsoring local government's application. Determination of a project award by the department is final. Notification must include the earliest date when the tax authorized under section 601 of this act may be imposed, subject to conditions in chapter 82.14 RCW. The project award notification must specify the rate requested in the application and any adjustments to the rate that would need to be made based on the project award and rate restrictions in section 601 of this act.

(5) The department must begin accepting applications on September 1, 2009.

PART V
ACCOUNTABILITY REPORTS

NEW SECTION. Sec. 501. A new section is added to chapter 82.32 RCW to read as follows:

REPORTING REQUIREMENTS. (1) A sponsoring local government receiving a project award under section 401 of this act must provide a report to the department by March 1st of each year beginning March 1st after the project award has been approved. The report must contain the following information:

(a) The amounts of local property tax allocation revenues received in the preceding calendar year broken down by sponsoring local government and participating taxing district;

(b) The amount of state property tax allocation revenues estimated to have been received by the state in the preceding calendar year;

(c) The amount of local sales and use tax or other revenue from local public sources dedicated by any participating local government used for the payment of bonds under section 701 of this act in the preceding calendar year;

(d) The amount of local sales and use tax dedicated by the sponsoring local government, as it relates to the sponsoring local government's local sales and use tax increment, used for the payment of bonds under section 701 of this act;

(e) The amounts, other than those listed in (a) through (d) of this subsection, from local public sources, broken down by type or source, used for payment of bonds under section 701 of this act in the preceding calendar year;

(f) The anticipated date when bonds under section 701 of this act are expected to be retired;

(g) The names of any businesses locating within the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(h) An estimate of the cumulative number of permanent jobs created in the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(i) An estimate of the average wages and benefits received by all employees of businesses locating within the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(j) A list of public improvements financed by bonds issued under section 701 of this act and the date on which the bonds are anticipated to be retired;

(k) That the sponsoring local government is in compliance with section 103 of this act and the date on which the bonds are anticipated to be retired;

(l) At least once every three years, updated estimates of the amounts of state and local sales and use tax increments estimated to have been received since the approval by the department of the project award under section 401 of this act; and

(m) Any other information required by the department to enable the department to fulfill its duties under this chapter and section 601 of this act.

(2) The department shall make a report available to the public and the legislature by June 1st of each year. The report shall include a summary of the information provided to the department by sponsoring local governments under subsection (1) of this section.

PART VI
LOCAL SALES AND USE TAX CREDITED AGAINST THE STATE SALES AND USE TAXES

NEW SECTION. Sec. 601. LOCAL SALES AND USE TAX. (1) Any city or county that has been approved for a project award

under section 401 of this act may impose a sales and use tax under the authority of this section in accordance with the terms of this chapter. Except as provided in this section, the tax is in addition to other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the city or county.

(2) The tax authorized under subsection (1) of this section is credited against the state taxes imposed under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1). The department must perform the collection of such taxes on behalf of the city or county at no cost to the city or county. The taxes must be distributed to cities and counties as provided in RCW 82.14.060.

(3) The rate of tax imposed by a city or county may not exceed the lesser of:

(a) The rate provided in RCW 82.08.020(1), less:

(i) The aggregate rates of all other local sales and use taxes imposed by any taxing authority on the same taxable events;

(ii) The aggregate rates of all taxes under RCW 82.14.465 and 82.14.475 and this section that are authorized but have not yet been imposed on the same taxable events by a city or county that has been approved to receive a state contribution by the department or the community economic revitalization board under chapter 39.-- RCW (the new chapter created in section 905 of this act) or chapter 39.100 or 39.102 RCW; and

(iii) The percentage amount of distributions required under RCW 82.08.020(5) multiplied by the rate of state taxes imposed under RCW 82.08.020(1); and

(b) The rate, as determined by the city or county in consultation with the department, reasonably necessary to receive the project award under section 401 of this act over ten months.

(4) The department, upon request, must assist a city or county in establishing its tax rate in accordance with subsection (3) of this section. Once the rate of tax is selected through the application process and approved under section 401 of this act, it may not be increased.

(5)(a) No tax may be imposed under the authority of this section before:

(i) July 1, 2011;

(ii) July 1st of the second calendar year following the year in which the department approved the application made under section 401 of this act;

(iii) The state sales and use tax increment for the preceding calendar year equals or exceeds the amount of the project award approved by the department under section 401 of this act; and

(iv) Bonds have been issued according to section 701 of this act.

(b) The tax imposed under this section expires the earlier of the date that the bonds issued under the authority of section 701 of this act are retired or twenty-five years after the tax is first imposed.

(6) An ordinance or resolution adopted by the legislative authority of the city or county imposing a tax under this section must provide that:

(a) The tax will first be imposed on the first day of a fiscal year;

(b) The cumulative amount of tax received by the city or county, in any fiscal year, may not exceed the amount approved by the department under subsection (10) of this section;

(c) The department must cease distributing the tax for the remainder of any fiscal year in which either:

(i) The amount of tax received by the city or county equals the amount of distributions approved by the department for the fiscal year under subsection (10) of this section; or

(ii) The amount of revenue from taxes imposed under this section by all cities and counties equals the annual state contribution limit;

(d) The tax will be distributed again, should it cease to be distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

(e) The state is entitled to any revenue generated by the tax in excess of the amounts specified in (c) of this subsection.

(7) If a city or county receives approval for more than one revitalization area within its jurisdiction, the city or county may impose a sales and use tax under this section for each revitalization area.

(8) The department must determine the amount of tax receipts distributed to each city and county imposing a sales and use tax under the authority of this section and must advise a city or county when tax distributions for the fiscal year equal the amount determined by the department in subsection (10) of this section. Determinations by the department of the amount of tax distributions attributable to a city or county are not appealable. The department must remit any tax receipts in excess of the amounts specified in subsection (6)(c) of this section to the state treasurer who must deposit the money in the general fund.

(9) If a city or county fails to comply with section 501 of this act, no tax may be distributed in the subsequent fiscal year until such time as the city or county complies and the department calculates the state contribution amount according to subsection (10) of this section for the fiscal year.

(10)(a) For each fiscal year that a city or county imposes the tax under the authority of this section, the department must approve the amount of taxes that may be distributed to the city or county. The amount approved by the department under this subsection is the lesser of:

(i) The state contribution;

(ii) The amount of project award granted by the department as provided in section 401 of this act; or

(iii) The total amount of revenues from local public sources dedicated in the preceding calendar year, as reported in the required annual report under section 501 of this act.

(b) A city or county may not receive, in any fiscal year, more revenues from taxes imposed under the authority of this section than the amount approved annually by the department.

(11) The amount of tax distributions received from taxes imposed under the authority of this section by all cities and counties is limited annually to not more than the amount of annual state contribution limit.

(12) The definitions in section 102 of this act apply to this section subject to subsection (13) of this section and unless the context clearly requires otherwise.

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

(a) "Local sales and use taxes" means sales and use taxes imposed by cities, counties, public facilities districts, and other local governments under the authority of this chapter, chapter 67.28 or 67.40 RCW, or any other chapter, and that are credited against the state sales and use taxes.

(b) "State sales and use taxes" means the taxes imposed in RCW 82.08.020(1) and 82.12.020(1).

(c) "Initiation of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031.

NEW SECTION. Sec. 602. USE OF SALES AND USE TAX FUNDS. Money collected from the taxes imposed under section 601 of this act may be used only for the purpose of paying debt service on bonds issued under the authority in section 701 of this act.

PART VII
BOND AUTHORIZATION

NEW SECTION. Sec. 701. ISSUANCE OF GENERAL OBLIGATION BONDS. (1) A sponsoring local government creating a revitalization area and authorizing the use of local revitalization financing may incur general indebtedness, and issue general obligation bonds, to finance the public improvements and retire the indebtedness in whole or in part from local revitalization financing it receives, subject to the following requirements:

(a) The ordinance adopted by the sponsoring local government creating the revitalization area and authorizing the use of local revitalization financing indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and

(b) The sponsoring local government includes this statement of the intent in all notices required by RCW 39.89.050.

(2) The general indebtedness incurred under subsection (1) of this section may be payable from other tax revenues, the full faith and credit of the sponsoring local government, and nontax income, revenues, fees, and rents from the public improvements, as well as contributions, grants, and nontax money available to the local government for payment of costs of the public improvements or associated debt service on the general indebtedness.

(3) In addition to the requirements in subsection (1) of this section, a sponsoring local government creating a revitalization area and authorizing the use of local revitalization financing may require any nonpublic participants to provide adequate security to protect the public investment in the public improvement within the revitalization area.

(4) Bonds issued under this section must be authorized by ordinance of the sponsoring local government and may be issued in one or more series and must bear a date or dates, be payable upon demand or mature at a time or times, bear interest at a rate or rates, be in a denomination or denominations, be in a form either coupon or registered as provided in RCW 39.46.030, carry conversion or registration privileges, have a rank or priority, be executed in a manner, be payable in a medium of payment, at a place or places, and be subject to terms of redemption with or without premium, be secured in a manner, and have other characteristics, as may be provided by an ordinance or trust indenture or mortgage issued pursuant thereto.

(5) The sponsoring local government may annually pay into a fund to be established for the benefit of bonds issued under this section a fixed proportion or a fixed amount of any local property tax allocation revenues derived from property or business activity within the revitalization area containing the public improvements funded by the bonds, the payment to continue until all bonds payable from the fund are paid in full. The local government may also annually pay into the fund established in this section a fixed proportion or a fixed amount of any revenues derived from taxes imposed under section 601 of this act, such payment to continue until all bonds payable from the fund are paid in full. Revenues derived from taxes imposed under section 601 of this act are subject to the use restriction in section 602 of this act.

(6) In case any of the public officials of the sponsoring local government whose signatures appear on any bonds or any coupons issued under this chapter cease to be the officials before the delivery of the bonds, the signatures must, nevertheless, be valid and sufficient for all purposes, the same as if the officials had remained in office until the delivery. Any provision of any law to the contrary notwithstanding, any bonds issued under this chapter are fully negotiable.

(7) Notwithstanding subsections (4) through (6) of this section, bonds issued under this section may be issued and sold in accordance with chapter 39.46 RCW.

NEW SECTION. Sec. 702. USE OF TAX REVENUE FOR BOND REPAYMENT. A sponsoring local government that issues bonds under section 701 of this act to finance public improvements may pledge for the payment of such bonds all or part of any local property tax allocation revenues derived from the public improvements. The sponsoring local government may also pledge all or part of any revenues derived from taxes imposed under section 601 of this act and held in connection with the public improvements. All of such tax revenues are subject to the use restriction in section 602 of this act.

NEW SECTION. Sec. 703. LIMITATION ON BONDS ISSUED. The bonds issued by a local government under section 701 of this act to finance public improvements do not constitute an obligation of the state of Washington, either general or special.

PART VIII
LOCAL INFRASTRUCTURE FINANCING TOOL

Sec. 801. RCW 82.14.475 and 2007 c 229 s 8 are each amended to read as follows:

(1) A sponsoring local government, and any cosponsoring local government, that has been approved by the board to use local infrastructure financing may impose a sales and use tax in accordance with the terms of this chapter and subject to the criteria set forth in this section. Except as provided in this section, the tax is in addition to other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the sponsoring local government or cosponsoring local government. The rate of tax shall not exceed the rate provided in RCW 82.08.020(1), less the aggregate rates of any other local sales and use taxes imposed on the same taxable events that are credited against the state sales and use taxes imposed under chapters 82.08 and 82.12 RCW. The rate of tax may be changed only on the first day of a fiscal year as needed. Notice of rate changes must be provided to the department on the first day of March to be effective on July 1st of the next fiscal year.

(2) The tax authorized under subsection (1) of this section shall be credited against the state taxes imposed under chapter 82.08 or 82.12 RCW. The department shall perform the collection of such taxes on behalf of the sponsoring local government or cosponsoring local government at no cost to the sponsoring local government or cosponsoring local government and shall remit the taxes as provided in RCW 82.14.060.

(3)(a) No tax may be imposed under the authority of this section:

(i) Before July 1, 2008;

(ii) Before approval by the board under RCW 39.102.040; and

(iii) Before the sponsoring local government has received local excise tax allocation revenues, local property tax allocation revenues, or both, during the preceding calendar year.

(b) The tax imposed under this section shall expire when the bonds issued under the authority of RCW 39.102.150 are retired, but not more than twenty-five years after the tax is first imposed.

(4) An ordinance adopted by the legislative authority of a sponsoring local government or cosponsoring local government imposing a tax under this section shall provide that:

(a) The tax shall first be imposed on the first day of a fiscal year;

(b) The cumulative amount of tax received by the sponsoring local government, and any cosponsoring local government, in any fiscal year shall not exceed the amount of the state contribution;

(c) The tax shall cease to be distributed for the remainder of any fiscal year in which either:

(i) The amount of tax received by the sponsoring local government, and any cosponsoring local government, equals the amount of the state contribution;

(ii) The amount of revenue from taxes imposed under this section by all sponsoring and cosponsoring local governments equals the annual state contribution limit; or

(iii) The amount of tax received by the sponsoring local government equals the amount of project award granted in the approval notice described in RCW 39.102.040;

(d) Neither the local excise tax allocation revenues nor the local property tax allocation revenues may constitute more than eighty percent of the total local funds as described in RCW 39.102.020(29)(c). This requirement applies beginning January 1st of the fifth calendar year after the calendar year in which the sponsoring local government begins allocating local excise tax allocation revenues under RCW 39.102.110;

(e) The tax shall be distributed again, should it cease to be distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

(f) Any revenue generated by the tax in excess of the amounts specified in (c) of this subsection shall belong to the state of Washington.

(5) If a county and city cosponsor a revenue development area, the combined rates of the city and county tax shall not exceed the rate provided in RCW 82.08.020(1), less the aggregate rates of any other local sales and use taxes imposed on the same taxable events that are credited against the state sales and use taxes imposed under chapters 82.08 and 82.12 RCW. The combined amount of distributions received by both the city and county may not exceed the state contribution.

(6) The department shall determine the amount of tax receipts distributed to each sponsoring local government, and any cosponsoring local government, imposing sales and use tax under this section and shall advise a sponsoring or cosponsoring local government when tax distributions for the fiscal year equal the amount of state contribution for that fiscal year as provided in subsection (8) of this section. Determinations by the department of the amount of tax distributions attributable to each sponsoring or cosponsoring local government are final and shall not be used to challenge the validity of any tax imposed under this section. The department shall remit any tax receipts in excess of the amounts specified in subsection (4)(c) of this section to the state treasurer who shall deposit the money in the general fund.

(7) If a sponsoring or cosponsoring local government fails to comply with RCW 39.102.140, no tax may be distributed in the subsequent fiscal year until such time as the sponsoring or cosponsoring local government complies and the department calculates the state contribution amount for such fiscal year.

(8) Each year, the amount of taxes approved by the department for distribution to a sponsoring or cosponsoring local government in the next fiscal year shall be equal to the state contribution and shall be no more than the total local funds as described in RCW 39.102.020(29)(c). The department shall consider information from reports described in RCW 39.102.140 when determining the amount of state contributions for each fiscal year. A sponsoring or cosponsoring local government shall not receive, in any fiscal year, more revenues from taxes imposed under the authority of this section than the amount approved annually by the department. The department shall not approve the receipt of more distributions of sales and use tax under this section to a sponsoring or cosponsoring local government than is authorized under subsection (4) of this section.

(9) The amount of tax distributions received from taxes imposed under the authority of this section by all sponsoring and cosponsoring local governments is limited annually to not more than ((~~seven~~)) ten million ((~~five hundred thousand~~)) dollars.

(10) The definitions in RCW 39.102.020 apply to this section unless the context clearly requires otherwise.

(11) If a sponsoring local government is a federally recognized Indian tribe, the distribution of the sales and use tax authorized under this section shall be authorized through an interlocal agreement pursuant to chapter 39.34 RCW.

(12) Subject to RCW 39.102.195, the tax imposed under the authority of this section may be applied either to provide for the payment of debt service on bonds issued under RCW 39.102.150 by the sponsoring local government or to pay public improvement costs on a pay-as-you-go basis, or both.

(13) The tax imposed under the authority of this section shall cease to be imposed if the sponsoring local government or cosponsoring local government fails to issue bonds under the authority of RCW 39.102.150 by June 30th of the fifth fiscal year in which the local tax authorized under this section is imposed.

(14) This section expires June 30, 2044.

Sec. 802. RCW 39.102.020 and 2008 c 209 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) "Annual state contribution limit" means ((~~seven~~)) ten million ((~~five hundred thousand~~)) dollars statewide per fiscal year.

(2) "Assessed value" means the valuation of taxable real property as placed on the last completed assessment roll.

(3) "Base year" means the first calendar year following the calendar year in which a sponsoring local government, and any cosponsoring local government, receives approval by the board for a project award, provided that the approval is granted before October 15th. If approval by the board is received on or after October 15th but on or before December 31st, the "base year" is the second calendar year following the calendar year in which a sponsoring local government, and any cosponsoring local government, receives approval by the board for a project award.

(4) "Board" means the community economic revitalization board under chapter 43.160 RCW.

(5) "Demonstration project" means one of the following projects:

(a) Bellingham waterfront redevelopment project;

(b) Spokane river district project at Liberty Lake; and

(c) Vancouver riverwest project.

(6) "Department" means the department of revenue.

(7) "Fiscal year" means the twelve-month period beginning July 1st and ending the following June 30th.

(8) "Local excise taxes" means local revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030 at the tax rate that was in effect at the time the revenue development area was approved by the board, except that if a local government reduces the rate of such tax after the revenue development area was approved

by the board, "local excise taxes" means the local revenues derived from the imposition of the sales and use taxes authorized in RCW 82.14.030 at the lower tax rate.

(9) "Local excise tax allocation revenue" means the amount of local excise taxes received by the local government during the measurement year from taxable activity within the revenue development area over and above the amount of local excise taxes received by the local government during the base year from taxable activity within the revenue development area, except that:

(a) If a sponsoring local government adopts a revenue development area and reasonably determines that no activity subject to tax under chapters 82.08 and 82.12 RCW occurred within the boundaries of the revenue development area in the twelve months immediately preceding the approval of the revenue development area by the board, "local excise tax allocation revenue" means the entire amount of local excise taxes received by the sponsoring local government during a calendar year period beginning with the calendar year immediately following the approval of the revenue development area by the board and continuing with each measurement year thereafter;

(b) For revenue development areas approved by the board in calendar years 2006 and 2007 that do not meet the requirements in (a) of this subsection and if legislation is enacted in this state during the 2007 legislative session that adopts the sourcing provisions of the streamlined sales and use tax agreement, "local excise tax allocation revenue" means the amount of local excise taxes received by the sponsoring local government during the measurement year from taxable activity within the revenue development area over and above an amount of local excise taxes received by the sponsoring local government during the 2007 or 2008 base year, as the case may be, adjusted by the department for any estimated impacts from retail sales and use tax sourcing changes effective in 2008. The amount of base year adjustment determined by the department is final; and

(c) If the sponsoring local government of a revenue development area related to a demonstration project reasonably determines that no local excise tax distributions were received between August 1, 2008, and December 31, 2008, from within the boundaries of the revenue development area, "local excise tax allocation revenue" means the entire amount of local excise taxes received by the sponsoring local government during a calendar year period beginning with 2009 and continuing with each measurement year thereafter.

(10) "Local government" means any city, town, county, port district, and any federally recognized Indian tribe.

(11) "Local infrastructure financing" means the use of revenues received from local excise tax allocation revenues, local property tax allocation revenues, other revenues from local public sources, and revenues received from the local option sales and use tax authorized in RCW 82.14.475, dedicated to pay either the principal and interest on bonds authorized under RCW 39.102.150 or to pay public improvement costs on a pay-as-you-go basis subject to RCW 39.102.195, or both.

(12) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local infrastructure financing.

(13)(a) "Revenues from local public sources" means:

(i) Amounts of local excise tax allocation revenues and local property tax allocation revenues, dedicated by sponsoring local governments, participating local governments, and participating taxing districts, for local infrastructure financing; and

(ii) Any other local revenues, except as provided in (b) of this subsection, including revenues derived from federal and private sources.

(b) Revenues from local public sources do not include any local funds derived from state grants, state loans, or any other state moneys including any local sales and use taxes credited against the state sales and use taxes imposed under chapter 82.08 or 82.12 RCW.

(14) "Low-income housing" means residential housing for low-income persons or families who lack the means which is necessary to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding. For the purposes of this subsection, "low income" means income that does not exceed eighty percent of the median family income for the standard metropolitan statistical area in which the revenue development area is located.

(15) "Measurement year" means a calendar year, beginning with the calendar year following the base year and each calendar year thereafter, that is used annually to measure state and local excise tax allocation revenues.

(16) "Ordinance" means any appropriate method of taking legislative action by a local government.

(17) "Participating local government" means a local government having a revenue development area within its geographic boundaries that has entered into a written agreement with a sponsoring local government as provided in RCW 39.102.080 to allow the use of all or some of its local excise tax allocation revenues or other revenues from local public sources dedicated for local infrastructure financing.

(18) "Participating taxing district" means a local government having a revenue development area within its geographic boundaries that has entered into a written agreement with a sponsoring local government as provided in RCW 39.102.080 to allow the use of some or all of its local property tax allocation revenues or other revenues from local public sources dedicated for local infrastructure financing.

(19)(a)(i) "Property tax allocation revenue value" means seventy-five percent of any increase in the assessed value of real property in a revenue development area resulting from:

(A) The placement of new construction, improvements to property, or both, on the assessment roll, where the new construction and improvements are initiated after the revenue development area is approved by the board;

(B) The cost of new housing construction, conversion, and rehabilitation improvements, when such cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.14.020, and the new housing construction, conversion, and rehabilitation improvements are initiated after the revenue development area is approved by the board;

(C) The cost of rehabilitation of historic property, when such cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.26.070, and the rehabilitation is initiated after the revenue development area is approved by the board.

(ii) Increases in the assessed value of real property in a revenue development area resulting from (a)(i)(A) through (C) of this subsection are included in the property tax allocation revenue value in the initial year. These same amounts are also included in the property tax allocation revenue value in subsequent years unless the property becomes exempt from property taxation.

(b) "Property tax allocation revenue value" includes seventy-five percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.

(c) Except as provided in (b) of this subsection, "property tax allocation revenue value" does not include any increase in the assessed value of real property after the initial year.

(d) There is no property tax allocation revenue value if the assessed value of real property in a revenue development area has not increased as a result of any of the reasons specified in (a)(i)(A) through (C) of this subsection.

(e) For purposes of this subsection, "initial year" means:

(i) For new construction and improvements to property added to the assessment roll, the year during which the new construction and improvements are initially placed on the assessment roll;

(ii) For the cost of new housing construction, conversion, and rehabilitation improvements, when such cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year; and

(iii) For the cost of rehabilitation of historic property, when such cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year.

(20) "Taxing district" means a government entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved revenue development area.

(21) "Public improvements" means:

(a) Infrastructure improvements within the revenue development area that include:

(i) Street, bridge, and road construction and maintenance, including highway interchange construction;

(ii) Water and sewer system construction and improvements, including wastewater reuse facilities;

(iii) Sidewalks, traffic controls, and streetlights;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities of a transit authority;

(vi) Park facilities and recreational areas, including trails; and

(vii) Storm water and drainage management systems;

(b) Expenditures for facilities and improvements that support affordable housing as defined in RCW 43.63A.510.

(22) "Public improvement costs" means the cost of: (a) Design, planning, acquisition including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements; (b) demolishing, relocating, maintaining, and operating property pending construction of public improvements; (c) the local government's portion of relocating utilities as a result of public improvements; (d) financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; (e) assessments incurred in revaluing real property for the purpose of determining the property tax allocation revenue base value that are in excess of costs incurred by the assessor in accordance with the revaluation plan under chapter 84.41 RCW, and the costs of apportioning the taxes and complying with this chapter and other applicable law; (f) administrative expenses and feasibility studies reasonably necessary and related to these costs; and (g) any of the above-described costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of local infrastructure financing to fund the costs of the public improvements.

(23) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (a) Regular property taxes levied by public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; (b) regular property taxes levied by the state for the support of the common schools under RCW 84.52.065; and (c) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose. "Regular property taxes" do not include excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043.

(24) "Property tax allocation revenue base value" means the assessed value of real property located within a revenue development area for taxes levied in the year in which the revenue development area is adopted for collection in the following year, plus one hundred percent of any increase in the assessed value of real property located within a revenue development area that is placed on the assessment rolls after the revenue development area is adopted, less the property tax allocation revenue value.

(25) "Relocating a business" means the closing of a business and the reopening of that business, or the opening of a new business that engages in the same activities as the previous business, in a different location within a one-year period, when an individual or entity has an ownership interest in the business at the time of closure and at the time of opening or reopening. "Relocating a business" does not include the closing and reopening of a business in a new location where the business has been acquired and is under entirely new ownership at the new location, or the closing and reopening of a business in a new location as a result of the exercise of the power of eminent domain.

(26) "Revenue development area" means the geographic area adopted by a sponsoring local government and approved by the board, from which local excise and property tax allocation revenues are derived for local infrastructure financing.

(27) "Small business" has the same meaning as provided in RCW 19.85.020.

(28) "Sponsoring local government" means a city, town, or county, and for the purpose of this chapter a federally recognized Indian tribe or any combination thereof, that adopts a revenue development area and applies to the board to use local infrastructure financing.

(29) "State contribution" means the lesser of:

(a) One million dollars;

(b) The state excise tax allocation revenue and state property tax allocation revenue received by the state during the preceding calendar year;

(c) The total amount of local excise tax allocation revenues, local property tax allocation revenues, and other revenues from local public sources, that are dedicated by a sponsoring local government, any participating local governments, and participating taxing districts, in the preceding calendar year to the payment of principal and interest on bonds issued under RCW 39.102.150 or to pay public improvement costs on a pay-as-you-go basis subject to RCW 39.102.195, or both; or

(d) The amount of project award granted by the board in the notice of approval to use local infrastructure financing under RCW 39.102.040.

(30) "State excise taxes" means revenues derived from state retail sales and use taxes under chapters 82.08 and 82.12 RCW, less the amount of tax distributions from all local retail sales and use taxes, other than the local sales and use taxes authorized by RCW 82.14.475, imposed on the same taxable events that are credited against the state retail sales and use taxes under chapters 82.08 and 82.12 RCW.

(31) "State excise tax allocation revenue" means the amount of state excise taxes received by the state during the measurement year from taxable activity within the revenue development area over and above the amount of state excise taxes received by the state during

the base year from taxable activity within the revenue development area, except that:

(a) If a sponsoring local government adopts a revenue development area and reasonably determines that no activity subject to tax under chapters 82.08 and 82.12 RCW occurred within the boundaries of the revenue development area in the twelve months immediately preceding the approval of the revenue development area by the board, "state excise tax allocation revenue" means the entire amount of state excise taxes received by the state during a calendar year period beginning with the calendar year immediately following the approval of the revenue development area by the board and continuing with each measurement year thereafter;

(b) For revenue development areas approved by the board in calendar years 2006 and 2007 that do not meet the requirements in (a) of this subsection and if legislation is enacted in this state during the 2007 legislative session that adopts the sourcing provisions of the streamlined sales and use tax agreement, "state excise tax allocation revenue" means the amount of state excise taxes received by the state during the measurement year from taxable activity within the revenue development area over and above an amount of state excise taxes received by the state during the 2007 or 2008 base year, as the case may be, adjusted by the department for any estimated impacts from retail sales and use tax sourcing changes effective in 2008. The amount of base year adjustment determined by the department is final; and

(c) If the sponsoring local government of a revenue development area related to a demonstration project reasonably determines that no local excise tax distributions were received between August 1, 2008, and December 31, 2008, from within the boundaries of the revenue development area, "state excise tax allocation revenue" means the entire amount of state excise taxes received by the state during a calendar year period beginning with 2009 and continuing with each measurement year thereafter.

(32) "State property tax allocation revenue" means those tax revenues derived from the imposition of property taxes levied by the state for the support of common schools under RCW 84.52.065 on the property tax allocation revenue value.

(33) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

Sec. 803. RCW 39.102.040 and 2007 c 229 s 2 are each amended to read as follows:

(1) Prior to applying to the board to use local infrastructure financing, a sponsoring local government shall:

(a) Designate a revenue development area within the limitations in RCW 39.102.060;

(b) Certify that the conditions in RCW 39.102.070 are met;

(c) Complete the process in RCW 39.102.080;

(d) Provide public notice as required in RCW 39.102.100; and

(e) Pass an ordinance adopting the revenue development area as required in RCW 39.102.090.

(2) Any local government that has created an increment area under chapter 39.89 RCW and has not issued bonds to finance any public improvement may apply to the board and have its increment area considered for approval as a revenue development area under this chapter without adopting a new revenue development area under RCW 39.102.090 and 39.102.100 if it amends its ordinance to comply with RCW 39.102.090(1) and otherwise meets the conditions and limitations under this chapter.

(3) As a condition to imposing a sales and use tax under RCW 82.14.475, a sponsoring local government, including any cosponsoring local government seeking authority to impose a sales and use tax under RCW 82.14.475, must apply to the board and be approved for a project award amount. The application shall be in a form and manner prescribed by the board and include but not be limited to information establishing that the applicant is an eligible candidate to impose the local sales and use tax under RCW 82.14.475, the anticipated effective date for imposing the tax, the estimated number of years that the tax will be imposed, and the estimated amount of tax revenue to be received in each fiscal year that the tax will be imposed. The board shall make available forms to be used for this purpose. As part of the application, each applicant must provide to the board a copy of the ordinance or ordinances creating the revenue development area as required in RCW 39.102.090. A notice of approval to use local infrastructure financing shall contain a project award that represents the maximum amount of state contribution that the applicant, including any cosponsoring local governments, can earn each year that local infrastructure financing is used. The total of all project awards shall not exceed the annual state contribution limit. The determination of a project award shall be made based on information contained in the application and the remaining amount of annual state contribution limit to be awarded. Determination of a project award by the board is final.

(4)(a) Sponsoring local governments, and any cosponsoring local governments, applying in calendar year 2007 for a competitive project award, must submit completed applications to the board no later than July 1, 2007. By September 15, 2007, in consultation with the department of revenue and the department of community, trade, and economic development, the board shall approve competitive project awards from competitive applications submitted by the 2007 deadline. No more than two million five hundred thousand dollars in competitive project awards shall be approved in 2007. For projects not approved by the board in 2007, sponsoring and cosponsoring local governments may apply again to the board in 2008 for approval of a project.

(b) Sponsoring local governments, and any cosponsoring local governments, applying in calendar year 2008 for a competitive project award, must submit completed applications to the board no later than July 1, 2008. By September 18, 2008, in consultation with the department of revenue and the department of community, trade, and economic development, the board shall approve competitive project awards from competitive applications submitted by the 2008 deadline. For projects not approved by the board in 2008, sponsoring and cosponsoring local governments may apply again to the board in 2009 for approval of a project.

(c) Sponsoring local governments, and any cosponsoring local governments, applying in calendar year 2009 for a competitive project award, must submit completed applications to the board no later than July 1, 2009. By September 30, 2009, in consultation with the department of revenue and the department of community, trade, and economic development, the board shall approve competitive project awards from competitive applications submitted by the 2009 deadline.

(d) Except as provided in RCW 39.102.050(2), a total of no more than ((~~five~~)) seven million five hundred thousand dollars in competitive project awards shall be approved for local infrastructure financing.

(((~~(d)~~))) (e) The project selection criteria and weighting developed prior to July 22, 2007, for the application evaluation and approval process shall apply to applications received prior to November 1, 2007. In evaluating applications for a competitive project award after November 1, 2007, the board shall, in consultation with the

Washington state economic development commission, develop the relative weight to be assigned to the following criteria:

(i) The project's potential to enhance the sponsoring local government's regional and/or international competitiveness;

(ii) The project's ability to encourage mixed use and transit-oriented development and the redevelopment of a geographic area;

(iii) Achieving an overall distribution of projects statewide that reflect geographic diversity;

(iv) The estimated wages and benefits for the project is greater than the average labor market area;

(v) The estimated state and local net employment change over the life of the project;

(vi) The current economic health and vitality of the proposed revenue development area and the contiguous community and the estimated impact of the proposed project on the proposed revenue development area and contiguous community;

(vii) The estimated state and local net property tax change over the life of the project;

(viii) The estimated state and local sales and use tax increase over the life of the project;

(ix) An analysis that shows that, over the life of the project, neither the local excise tax allocation revenues nor the local property tax allocation revenues will constitute more than eighty percent of the total local funds as described in RCW 39.102.020(29)(c); and

(x) If a project is located within an urban growth area, evidence that the project utilizes existing urban infrastructure and that the transportation needs of the project will be adequately met through the use of local infrastructure financing or other sources.

~~(((c)(i) Except as provided in this subsection (4)(c), the board may not approve the use of local infrastructure financing within more than one revenue development area per county.~~

~~(ii) In a county in which the board has approved the use of local infrastructure financing, the use of such financing in additional revenue development areas may be approved, subject to the following conditions:~~

~~(A) The sponsoring local government is located in more than one county; and~~

~~(B) The sponsoring local government designates a revenue development area that comprises portions of a county within which the use of local infrastructure financing has not yet been approved.~~

~~(iii) In a county where the local infrastructure financing tool is authorized under RCW 39.102.050, the board may approve additional use of the local infrastructure financing tool.~~))

(f) At least one project awarded in 2009 must be for a downtown redevelopment project in a city: (i) With less than one hundred thousand population; (ii) fully planning under RCW 36.70A.040 of the growth management act; and (iii) receiving funds from the streamlined sales and use tax mitigation account created in RCW 82.14.495.

(g) No project may be awarded in 2009 for a project located in a city with greater than three hundred thousand population.

(5) Once the board has approved the sponsoring local government, and any cosponsoring local governments, to use local infrastructure financing, notification must be sent by the board to the sponsoring local government, and any cosponsoring local governments, authorizing the sponsoring local government, and any cosponsoring local governments, to impose the local sales and use tax authorized under RCW 82.14.475, subject to the conditions in RCW 82.14.475.

Sec. 804. RCW 43.160.030 and 2008 c 327 s 3 are each amended to read as follows:

(1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of one member from each of the two major caucuses of the house of representatives to be appointed by the speaker of the house and one member from each of the two major caucuses of the senate to be appointed by the president of the senate. The board shall also consist of the following members appointed by the governor: A recognized private or public sector economist; one port district official; one county official; one city official; one urban planner; one representative of a federally recognized Indian tribe; one representative of the public; one person representing organized labor; one representative of small businesses each from: (a) The area west of Puget Sound, (b) the area east of Puget Sound and west of the Cascade range, (c) the area east of the Cascade range and west of the Columbia river, and (d) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members shall initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms which shall include the chair. Thereafter each succeeding term shall be for three years. The chair of the board shall be selected by the governor. The members of the board shall elect one of their members to serve as vice-chair. The director of community, trade, and economic development, the director of revenue, the commissioner of employment security, and the secretary of transportation shall serve as nonvoting advisory members of the board.

(3) Management services, including fiscal and contract services, shall be provided by the department to assist the board in implementing this chapter.

(4) Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the governor shall fill the same for the unexpired term. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW.

(6) A member appointed by the governor may not be absent from more than fifty percent of the regularly scheduled meetings in any one calendar year. Any member who exceeds this absence limitation is deemed to have withdrawn from the office and may be replaced by the governor.

(7) A majority of members currently appointed constitutes a quorum.

Sec. 805. RCW 39.102.904 and 2006 c 181 s 707 are each amended to read as follows:

This ((~~act~~)) chapter expires June 30, ((~~2039~~)) 2044.

NEW SECTION. Sec. 806. The following acts or parts are each repealed:

(1) 2008 c 209 s 2 (uncodified); and

(2) 2007 c 229 s 17 (uncodified).

PART IX
MISCELLANEOUS

NEW SECTION. Sec. 901. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 902. CAPTIONS AND PART HEADINGS NOT LAW. Captions and part headings used in this act do not constitute any part of the law.

NEW SECTION. Sec. 903. AUTHORITY. Nothing in this act may be construed to give port districts the authority to impose a sales or use tax under chapter 82.14 RCW.

NEW SECTION. Sec. 904. ADMINISTRATION BY THE DEPARTMENT. The department of revenue may adopt any rules under chapter 34.05 RCW it considers necessary for the administration of this chapter.

NEW SECTION. Sec. 905. Sections 101 through 401 and 701 through 804 of this act constitute a new chapter in Title 39 RCW.

NEW SECTION. Sec. 906. Sections 601 and 602 of this act are each added to chapter 82.14 RCW.

NEW SECTION. Sec. 907. Section 803 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Kenney, Chair; Maxwell, Vice Chair; Smith, Ranking Minority Member; Liias; Orcutt; Parker; Probst and Sullivan.

MINORITY recommendation: Do not pass. Signed by Representative Chase.

Referred to Committee on Finance.

March 24, 2009

SSB 5061 Prime Sponsor, Committee on Natural Resources, Ocean & Recreation: Enhancing natural resource collections at the Washington park arboretum. Reported by Committee on Ecology & Parks

MAJORITY recommendation: Do pass. Signed by Representatives Upthegrove, Chair; Rolfes, Vice Chair; Short, Ranking Minority Member; Chase; Dickerson; Dunshee; Eddy; Finn; Hudgins; Kretz; Kristiansen; Morris; Orcutt and Shea.

Referred to Committee on Education Appropriations.

March 24, 2009

SB 5071 Prime Sponsor, Senator Jacobsen: Designating the Olympic marmot the official endemic mammal of the state of Washington. Reported by Committee on State Government & Tribal Affairs

MAJORITY recommendation: Do pass. Signed by Representatives Hunt, Chair; Armstrong, Ranking Minority Member; Alexander; Flannigan; Hurst and Miloscia.

Passed to Committee on Rules for second reading.

March 23, 2009

ESSB 5228 Prime Sponsor, Committee on Transportation: Regarding construction projects by county forces. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chair; Liias, Vice Chair; Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong; Campbell; Cox; Driscoll; Eddy; Finn; Flannigan; Herrera; Johnson; Klippert; Kristiansen; Moeller; Rolfes; Sells; Shea; Simpson; Springer; Takko; Upthegrove; Wallace; Williams and Wood.

MINORITY recommendation: Do not pass. Signed by Representative Ericksen.

Passed to Committee on Rules for second reading.

March 24, 2009

ESSB 5262 Prime Sponsor, Committee on Judiciary: Allowing law enforcement access to driver's license photographs for the purposes of identity verification. (REVISED FOR ENGROSSED: Allowing law enforcement and court access to driver's license photographs for the purposes of identity verification.) Reported by Committee on Public Safety & Emergency Preparedness

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.20.118 and 2005 c 274 s 307 and 2005 c 246 s 23 are each reenacted and amended to read as follows:

(1) The department shall maintain a negative file. It shall contain negatives of all pictures taken by the department of licensing as authorized by ((~~RCW 46.20.070 through 46.20.119~~)) this chapter. Negatives in the file shall not be available for public inspection and copying under chapter 42.56 RCW.

(2) The department may make the file available to official governmental enforcement agencies to assist in the investigation by the agencies of suspected criminal activity or for the purposes of verifying identity when a law enforcement officer is authorized by law to request identification from an individual.

(3) The department shall make the file available to the office of the secretary of state, at the expense of the secretary of state, to assist in maintenance of the statewide voter registration database.

(4) The department may also provide a print to the driver's next of kin in the event the driver is deceased."

Correct the title.

Signed by Representatives Hurst, Chair; O'Brien, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Goodman; Kirby and Ross.

Referred to Committee on General Government Appropriations.

March 19, 2009

SSB 5285 Prime Sponsor, Committee on Human Services & Corrections: Revising procedures for appointment of guardians ad litem. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 26.44.030 and 2008 c 211 s 5 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist,

pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court appointed special advocates, appointed under Titles 11, 13, and 26 RCW, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert

medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(11)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(12) In conducting an investigation of alleged abuse or neglect, the department or law enforcement agency:

(a) May interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(b) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(13) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombudsman of the contents of the report. The department shall also notify the ombudsman of the disposition of the report.

(14) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(15) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(16) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

(17) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(18) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

Sec. 2. RCW 13.34.100 and 2000 c 124 s 2 are each amended to read as follows:

(1) The court shall appoint a guardian ad litem for a child who is the subject of an action under this chapter, unless a court for good cause finds the appointment unnecessary. The requirement of a guardian ad litem may be deemed satisfied if the child is represented by independent counsel in the proceedings. The court shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs.

(2) If the court does not have available to it a guardian ad litem program with a sufficient number of volunteers, the court may appoint a suitable person to act as guardian ad litem for the child under this chapter. Another party to the proceeding or the party's employee or representative shall not be so appointed.

(3) Each guardian ad litem program shall maintain a background information record for each guardian ad litem in the program. The background ((~~file~~)) information record shall include, but is not limited to, the following information:

(a) Level of formal education;

(b) General training related to the guardian((~~'s~~)) ad litem's duties;

(c) Specific training related to issues potentially faced by children in the dependency system;

(d) Specific training or education related to child disability or developmental issues;

(e) Number of years' experience as a guardian ad litem;

(((~~d~~))) (f) Number of appointments as a guardian ad litem and the county or counties of appointment;

(((~~e~~))) (g) The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; ((~~and~~ (~~f~~))) (h) Founded allegations of abuse or neglect as defined in RCW 26.44.020;

(i) The results of an examination that shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050 and the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834. This background check shall be done through the Washington state patrol criminal identification section; and

(j) Criminal history, as defined in RCW 9.94A.030, for the period covering ten years prior to the appointment.

The background information ((~~report~~)) record shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program ((~~the~~)) a suitable person appointed by the court to act as guardian ad litem shall provide the background information record to the court.

Upon appointment, the guardian ad litem, or guardian ad litem program, shall provide the parties or their attorneys with a ((~~statement containing: His or her training relating to the duties as a guardian ad litem; the name of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; and his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment~~)) copy of the background information record. The portion of the background information record containing the results of the criminal background check and the criminal history shall not be disclosed to the parties or their attorneys. The background ((~~statement~~)) information record shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety.

(4) The appointment of the guardian ad litem shall remain in effect until the court discharges the appointment or no longer has jurisdiction, whichever comes first. The guardian ad litem may also be discharged upon entry of an order of guardianship.

(5) A guardian ad litem through counsel, or as otherwise authorized by the court, shall have the right to present evidence, examine and cross-examine witnesses, and to be present at all hearings. A guardian ad litem shall receive copies of all pleadings and other documents filed or submitted to the court, and notice of all hearings according to court rules. The guardian ad litem shall receive all notice contemplated for a parent or other party in all proceedings under this chapter.

(6) If the child requests legal counsel and is age twelve or older, or if the guardian ad litem or the court determines that the child needs to be independently represented by counsel, the court may appoint an attorney to represent the child's position.

(7) For the purposes of child abuse prevention and treatment act (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247, or any related state or federal legislation, a person appointed pursuant to RCW 13.34.100 shall be deemed a guardian ad litem to represent the best interests of the minor in proceedings before the court.

(8) When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends ((~~and the appointment shall be effective immediately~~)). The program shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs. The court shall immediately appoint the person recommended by the program.

(9) If a party in a case reasonably believes the court-appointed special advocate or volunteer guardian ad litem is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the court-appointed special advocate or volunteer guardian ad litem on the grounds the advocate or volunteer is inappropriate or unqualified.

Sec. 3. RCW 26.12.175 and 2000 c 124 s 6 are each amended to read as follows:

(1)(a) The court may appoint a guardian ad litem to represent the interests of a minor or dependent child when the court believes the appointment of a guardian ad litem is necessary to protect the best interests of the child in any proceeding under this chapter. The court may appoint a guardian ad litem from the court-appointed special advocate program, if that program exists in the county. The court shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs. The family court services professionals may also make a recommendation to the court regarding whether a guardian ad litem should be appointed for the child. ((~~The court may appoint a guardian ad litem from the court-appointed special advocate program, if that program exists in the county.~~))

(b) ((~~Unless otherwise ordered,~~)) The guardian ad litem's role is to investigate and report factual information regarding the issues ordered to be reported or investigated to the court ((~~concerning parenting arrangements for the child, and to represent the child's best interests~~)). The guardian ad litem shall always represent the best interests of the child. Guardians ad litem and investigators under this title may make recommendations based upon ((~~an independent investigation regarding the best interests of the child~~)) his or her investigation, which the court may consider and weigh in conjunction with the recommendations of all of the parties. If a child expresses a preference regarding the parenting plan, the guardian ad litem shall report the preferences to the court, together with the facts relative to whether any preferences are being expressed voluntarily and the degree of the child's understanding. The court may require the guardian ad litem to provide periodic reports to the parties regarding the status of his or her investigation. The guardian ad litem shall file his or her report at least sixty days prior to trial.

(c) The parties to the proceeding may file with the court written responses to any report filed by the guardian ad litem or investigator. The court shall consider any written responses to a report filed by the guardian ad litem or investigator, including any factual information or recommendations provided in the report.

(d) The court shall enter an order for costs, fees, and disbursements to cover the costs of the guardian ad litem. The court may order either or both parents to pay for the costs of the guardian ad litem, according to their ability to pay. If both parents are indigent, the county shall bear the cost of the guardian, subject to appropriation for guardians' ad litem services by the county legislative authority. Guardians ad litem who are not volunteers shall provide the parties with an itemized accounting of their time and billing for services each month.

(2)(a) If the guardian ad litem appointed is from the county court- appointed special advocate program, the program shall supervise any guardian ad litem assigned to the case. The court-appointed special advocate program shall be entitled to notice of all proceedings in the case.

(b) The legislative authority of each county may authorize creation of a court-appointed special advocate program. The county

legislative authority may adopt rules of eligibility for court-appointed special advocate program services that are not inconsistent with this section.

(3) Each guardian ad litem program for compensated guardians ad litem and each court-appointed special advocate program shall maintain a background information record for each guardian ad litem in the program. The background ((~~file~~)) information record shall include, but is not limited to, the following information:

(a) Level of formal education;

(b) General training related to the guardian((~~'s~~)) ad litem's duties;

(c) Specific training related to issues potentially faced by children in dissolution, custody, paternity, and other family law proceedings;

(d) Specific training or education related to child disability or developmental issues;

(e) Number of years' experience as a guardian ad litem;

(((~~(d)~~))) (f) Number of appointments as a guardian ad litem and county or counties of appointment;

(((~~(e)~~))) (g) The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; ((~~and (f)~~)) (h) Founded allegations of abuse or neglect as defined in RCW 26.44.020;

(i) The results of an examination that shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050 and the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834. This background check shall be done through the Washington state patrol criminal identification section; and

(j) Criminal history, as defined in RCW 9.94A.030, for the period covering ten years prior to the appointment.

The background information ((~~report~~)) record shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program the person appointed as guardian ad litem shall provide the background information record to the court.

Upon appointment, the guardian ad litem, court-appointed special advocate program or guardian ad litem program, shall provide the parties or their attorneys with a ((~~statement containing: His or her training relating to the duties as a guardian ad litem; the name of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; and his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment~~)) copy of the background information record. The portion of the background information record containing the results of the criminal background check and the criminal history shall not be disclosed to the parties or their attorneys. The background ((~~statement~~)) information record shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety.

(4) When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends ((~~and the appointment shall be effective immediately~~)). The court shall immediately appoint the person recommended by the program.

(5) If a party in a case reasonably believes the court-appointed special advocate or volunteer guardian ad litem is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the court-appointed special advocate or volunteer guardian ad litem on the grounds the advocate or volunteer is inappropriate or unqualified.

Sec. 4. RCW 26.12.177 and 2007 c 496 s 305 are each amended to read as follows:

(1) All guardians ad litem and investigators appointed under this title must comply with the training requirements established under RCW 2.56.030(15), prior to their appointment in cases under Title 26 RCW, except that volunteer guardians ad litem or court-appointed special advocates may comply with alternative training requirements approved by the administrative office of the courts that meet or exceed the statewide requirements. In cases involving allegations of limiting factors under RCW 26.09.191, the guardians ad litem and investigators appointed under this title must have additional relevant training under RCW 2.56.030(15) and as recommended under RCW 2.53.040, when it is available.

(2)(a) Each guardian ad litem program for compensated guardians ad litem shall establish a rotational registry system for the appointment of guardians ad litem and investigators under this title. If a judicial district does not have a program the court shall establish the rotational registry system. Guardians ad litem and investigators under this title shall be selected from the registry except in exceptional circumstances as determined and documented by the court. The parties may make a joint recommendation for the appointment of a guardian ad litem from the registry.

(b) In judicial districts with a population over one hundred thousand, a list of three names shall be selected from the registry and given to the parties along with the background information record as specified in RCW 26.12.175(3), including their hourly rate for services. Each party may, within three judicial days, strike one name from the list. If more than one name remains on the list, the court shall make the appointment from the names on the list. In the event all three names are stricken the person whose name appears next on the registry shall be appointed.

(c) If a party reasonably believes that the appointed guardian ad litem ((~~lacks the necessary expertise for the proceeding~~)) is inappropriate or unqualified, charges an hourly rate higher than what is reasonable for the particular proceeding, or has a conflict of interest, the party may, within three judicial days from the appointment, move for substitution of the appointed guardian ad litem by filing a motion with the court.

(d) Under this section, within either registry referred to in (a) of this subsection, a subregistry may be created that consists of guardians ad litem under contract with the department of social and health services' division of child support. Guardians ad litem on such a subregistry shall be selected and appointed in state-initiated paternity cases only.

(e) The superior court shall remove any person from the guardian ad litem registry who ((~~misrepresents~~)) has been found to have misrepresented his or her qualifications ((~~pursuant to a grievance procedure established by the court~~)).

(3) The rotational registry system shall not apply to court-appointed special advocate programs."

Signed by Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant

Ranking Minority Member; Flannigan; Kelley; Kirby; Ormsby; Roberts; Ross and Warnick.

Referred to Committee on General Government Appropriations.

March 24, 2009

SB 5359 Prime Sponsor, Senator Oemig: Preventing rejection of ballots that have voter identifying marks. Reported by Committee on State Government & Tribal Affairs

MAJORITY recommendation: Do pass as amended:

On page 1, beginning on line 17, strike all of subsection (2) and insert the following:

"(2) An election official may not issue any ballot with a unique identifying mark, except as specifically authorized by this subsection. Identifying marks placed on a ballot prior to the issuance of the ballot may not vary within an individual precinct. An election official may place a nonsequential, anonymously assigned unique identifying mark on a ballot after the ballot has been returned by a voter, and, if applicable, separated from its security envelope, solely for auditing and vote reconciliation purposes, or to determine if a particular ballot has been previously counted, as long as it is not associated with an individual voter, a voter's address, or a voter's registration number."

On page 2, after line 15, insert the following:

"(4) An elections official may not enter into or extend any contract with a vendor that includes any use of identifying marks on ballots, if such contract may allow the vendor to acquire an ownership interest in or knowledge of any data pertaining to any voter, any voter's address, registration number, or history, or any ballot."

Signed by Representatives Hunt, Chair; Armstrong, Ranking Minority Member; Alexander; Flannigan; Hurst and Miloscia.

Passed to Committee on Rules for second reading.

March 24, 2009

SSB 5380 Prime Sponsor, Committee on Judiciary: Addressing the statute of limitations for certain crimes. Reported by Committee on Public Safety & Emergency Preparedness

MAJORITY recommendation: Do pass. Signed by Representatives Hurst, Chair; O'Brien, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Goodman; Kirby and Ross.

Passed to Committee on Rules for second reading.

March 23, 2009

SB 5426 Prime Sponsor, Senator Kastama: Authorizing certain areas in cities or towns to annex to a fire protection district. Reported by Committee on Local Government & Housing

MAJORITY recommendation: Do pass. Signed by Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Miloscia; Short; Springer; Upthegrove; White and Williams.

Passed to Committee on Rules for second reading.

March 23, 2009

ESSB 5485 Prime Sponsor, Committee on Environment, Water & Energy: Authorizing water-sewer districts to construct, condemn and purchase, add to, maintain, and operate systems for reclaimed water. Reported by Committee on Local Government & Housing

MAJORITY recommendation: Do pass. Signed by Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Miloscia; Short; Springer; Upthegrove; White and Williams.

Passed to Committee on Rules for second reading.

March 24, 2009

SB 5487 Prime Sponsor, Senator Brandland: Changing the notification date for nonrenewal of a certificated employee's contract. Reported by Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Quall, Chair; Probst, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Cox; Dammeier; Hunt; Johnson; Maxwell; Orwall; Santos and Sullivan.

Passed to Committee on Rules for second reading.

March 23, 2009

SB 5540 Prime Sponsor, Senator Pridemore: Establishing high capacity transportation corridor areas. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chair; Liias, Vice Chair; Campbell; Eddy; Finn; Flannigan; Moeller; Rolfes; Sells; Simpson; Springer; Takko; Upthegrove; Wallace; Williams and Wood.

MINORITY recommendation: Do not pass. Signed by Representatives Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong; Cox; Driscoll; Ericksen; Herrera; Johnson; Klippert; Kristiansen and Shea.

Passed to Committee on Rules for second reading.

March 24, 2009

SSB 5551 Prime Sponsor, Committee on Early Learning & K-12 Education: Regarding recess periods for elementary school students. Reported by Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Quall, Chair; Probst, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Cox; Dammeier; Hunt; Johnson; Maxwell; Orwall; Santos and Sullivan.

Passed to Committee on Rules for second reading.

March 23, 2009

SB 5587 Prime Sponsor, Senator Pridemore: Authorizing existing city and county real estate excise taxes to be expended on municipally owned heavy rail short lines. Reported by Committee on Local Government & Housing

MAJORITY recommendation: Do pass. Signed by Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Miloscia; Springer; Upthegrove; White and Williams.

MINORITY recommendation: Do not pass. Signed by Representative Short.

Referred to Committee on Finance.

March 24, 2009

ESSB 5763 Prime Sponsor, Committee on Early Learning & K-12 Education: Requiring the adoption of policies for the management of concussion and head injury in youth sports. Reported by Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Quall, Chair; Probst, Vice Chair; Priest, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Cox; Dammeier; Hunt; Johnson; Maxwell; Orwall; Santos and Sullivan.

Passed to Committee on Rules for second reading.

March 23, 2009

ESSB 5808 Prime Sponsor, Committee on Government Operations & Elections: Concerning the annexation of unincorporated areas served by fire protection districts. Reported by Committee on Local Government & Housing

MAJORITY recommendation: Do pass. Signed by Representatives Simpson, Chair; Nelson, Vice Chair; Miloscia; Springer; White and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Angel, Ranking Minority Member; Cox, Assistant Ranking Minority Member; Short and Upthegrove.

Passed to Committee on Rules for second reading.

March 23, 2009

E2SSB 5854 Prime Sponsor, Committee on Ways & Means: Reducing climate pollution in the built environment. Reported by Committee on Technology, Energy & Communications

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION.** **Sec.** 1. The legislature finds that energy efficiency is the cheapest, quickest, and cleanest way to meet rising energy needs, confront climate change, and boost our economy. More than thirty percent of Washington's greenhouse gas emissions come from energy use in buildings. Making homes, businesses, and public institutions more energy efficient will save money, create good local jobs, enhance energy security, reduce pollution that causes global warming, and speed economic recovery while reducing the need to invest in costly new generation. Washington can spur its economy and assert its regional and national clean energy leadership by putting efficiency first. Washington can accomplish this by: Promoting super efficient, low-energy use building codes; requiring disclosure of buildings' energy use to prospective buyers; making public buildings models of energy efficiency; financing energy saving upgrades to existing buildings; and reducing utility bills for low-income households.

NEW SECTION. **Sec.** 2. The definitions in this section apply to sections 1 through 3 and 5 through 8 of this act and RCW 19.27A.020 unless the context clearly requires otherwise.

(1) "Benchmark" means the energy used by a facility as recorded monthly for at least one year and the facility characteristics information inputs required for a portfolio manager.

(2) "Conditioned space" means conditioned space, as defined in the Washington state energy code.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(4) "Cost-effectiveness" means that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

(5) "Council" means the state building code council.

(6) "Department" means the department of community, trade, and economic development.

(7) "Embodied energy" means the total amount of fossil fuel energy consumed to extract raw materials and to manufacture, assemble, transport, and install the materials in a building and the life-cycle cost benefits including the recyclability and energy efficiencies with respect to building materials, taking into account the total sum of current values for the costs of investment, capital, installation, operating, maintenance, and replacement as estimated for the lifetime of the product or project.

(8) "Energy consumption data" means the monthly amount of energy consumed by a customer as recorded by the applicable energy meter for the most recent twelve-month period.

(9) "Energy service company" has the same meaning as in RCW 43.19.670.

(10) "General administration" means the department of general administration.

(11) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(12) "Investment grade energy audit" means an intensive engineering analysis of energy efficiency and management measures for the facility, net energy savings, and a cost-effectiveness determination.

(13) "Investor-owned utility" means a corporation owned by investors that meets the definition of "corporation" as defined in RCW 80.04.010 and is engaged in distributing either electricity or natural gas, or both, to more than one retail electric customer in the state.

(14) "Major facility" means any publicly owned or leased building, or a group of such buildings at a single site, having ten thousand square feet or more of conditioned floor space.

(15) "National energy performance rating" means the score provided by the energy star program, to indicate the energy efficiency performance of the building compared to similar buildings in that climate as defined in the United States environmental protection agency "ENERGY STAR® Performance Ratings Technical Methodology."

(16) "Net zero energy use" means a building with net energy consumption of zero over a typical year.

(17) "Portfolio manager" means the United States environmental protection agency's energy star portfolio manager or an equivalent tool adopted by the department.

(18) "Preliminary energy audit" means a quick evaluation by an energy service company of the energy savings potential of a building.

(19) "Qualifying public agency" includes all state agencies, colleges, and universities.

(20) "Qualifying utility" means a consumer-owned or investor-owned gas or electric utility that serves more than twenty-five thousand customers in the state of Washington.

(21) "Reporting public facility" means any of the following:

(a) A building or structure, or a group of buildings or structures at a single site, owned by a qualifying public agency, that exceed ten thousand square feet of conditioned space;

(b) Buildings, structures, or spaces leased by a qualifying public agency that exceeds ten thousand square feet of conditioned space, where the qualifying public agency purchases energy directly from the investor-owned or consumer-owned utility;

(c) A wastewater treatment facility owned by a qualifying public agency; or

(d) Other facilities selected by the qualifying public agency.

(22) "State portfolio manager master account" means a portfolio manager account established to provide a single shared portfolio that includes reports for all the reporting public facilities.

NEW SECTION. Sec. 3. (1) The department shall develop and implement a strategic plan for enhancing energy efficiency in and reducing greenhouse gas emissions from homes, buildings, districts, and neighborhoods. The strategic plan must be used to help direct the future code increases in RCW 19.27A.020, with targets for new buildings consistent with section 5 of this act. The strategic plan will identify barriers to achieving net zero energy use in homes and buildings and identify how to overcome these barriers in future energy code updates and through complementary policies.

(2) The department must complete and release the strategic plan to the legislature and the council by December 31, 2010, and update the plan every three years.

(3) The strategic plan must include recommendations to the council on energy code upgrades. At a minimum, the strategic plan must:

(a) Consider development of aspirational codes separate from the state energy code that contain economically and technically feasible optional standards that could achieve higher energy efficiency for those builders that elected to follow the aspirational codes in lieu of or in addition to complying with the standards set forth in the state energy code;

(b) Determine the appropriate methodology to measure achievement of state energy code targets using the United States environmental protection agency's target finder program or equivalent methodology;

(c) Address the need for enhanced code training and enforcement;

(d) Include state strategies to support research, demonstration, and education programs designed to achieve a seventy percent reduction in annual net energy consumption as specified in section 5 of this act and enhance energy efficiency and on-site renewable energy production in buildings;

(e) Recommend incentives, education, training programs and certifications, particularly state-approved training or certification programs, joint apprenticeship programs, or labor-management partnership programs that train workers for energy-efficiency projects to ensure proposed programs are designed to increase building professionals' ability to design, construct, and operate buildings that will meet the seventy percent reduction in annual net energy consumption as specified in section 5 of this act;

(f) Address barriers for utilities to serve net zero energy homes and buildings and policies to overcome those barriers;

(g) Address the limits of a prescriptive code in achieving net zero energy use homes and buildings and propose a transition to performance-based codes;

(h) Identify financial mechanisms such as tax incentives, rebates, and innovative financing to motivate energy consumers to take action to increase energy efficiency and their use of on-site renewable energy. Such incentives, rebates, or financing options may consider the role of government programs as well as utility-sponsored programs;

(i) Address the adequacy of education and technical assistance, including school curricula, technical training, and peer-to-peer exchanges for professional and trade audiences;

(j) Develop strategies to develop and install district and neighborhood-wide energy systems that help meet net zero energy use in homes and buildings;

(k) Identify costs and benefits of energy efficiency measures on residential and nonresidential construction; and

(l) Investigate methodologies and standards for the measurement of the amount of embodied energy used in building materials.

(4) The department and the council shall convene a work group with the affected parties to inform the initial development of the strategic plan.

Sec. 4. RCW 19.27A.020 and 1998 c 245 s 8 are each amended to read as follows:

(1) ((~~No later than January 1, 1991,~~)) The state building code council shall adopt rules to be known as the Washington state energy code as part of the state building code.

(2) The council shall follow the legislature's standards set forth in this section to adopt rules to be known as the Washington state energy code. The Washington state energy code shall be designed to:

(a) Construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year 2031;

(b) Require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework((~~. The Washington state energy code shall be designed to~~)); and

(c) Allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(3) The Washington state energy code shall take into account regional climatic conditions. Climate zone 1 shall include all counties not included in climate zone 2. Climate zone 2 includes: Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman counties.

(4) The Washington state energy code for residential buildings shall ((~~require:~~

~~(a) New residential buildings that are space heated with electric resistance heating systems to achieve energy use equivalent to that used in typical buildings constructed with:~~

~~(i) Ceilings insulated to a level of R-38. The code shall contain an exception which permits single rafter or joist vaulted ceilings insulated to a level of R-30 (R value includes insulation only);~~

~~(ii) In zone 1, walls insulated to a level of R-19 (R value includes insulation only), or constructed with two by four members, R-13 insulation batts, R-3.2 insulated sheathing, and other normal assembly components; in zone 2 walls insulated to a level of R-24 (R value includes insulation only), or constructed with two by six members, R-22 insulation batts, R-3.2 insulated sheathing, and other normal construction assembly components; for the purpose of determining equivalent thermal performance, the wall U-value shall be 0.058 in zone 1 and 0.044 in zone 2;~~

~~(iii) Below grade walls, insulated on the interior side, to a level of R-19 or, if insulated on the exterior side, to a level of R-10 in zone 1 and R-12 in zone 2 (R value includes insulation only);~~

~~(iv) Floors over unheated spaces insulated to a level of R-30 (R value includes insulation only);~~

~~(v) Slab on grade floors insulated to a level of R-10 at the perimeter;~~

~~(vi) Double glazed windows with values not more than U-0.4;~~

~~(vii) In zone 1 the glazing area may be up to twenty-one percent of floor area and in zone 2 the glazing area may be up to seventeen percent of floor area where consideration of the thermal resistance values for other building components and solar heat gains through the glazing result in thermal performance equivalent to that achieved with thermal resistance values for other components determined in accordance with the equivalent thermal performance criteria of (a) of this subsection and glazing area equal to fifteen percent of the floor area. Throughout the state for the purposes of determining equivalent thermal performance, the maximum glazing area shall be fifteen percent of the floor area; and~~

~~(viii) Exterior doors insulated to a level of R-5; or an exterior wood door with a thermal resistance value of less than R-5 and values for other components determined in accordance with the equivalent thermal performance criteria of (a) of this subsection.~~

~~(b) New residential buildings which are space-heated with all other forms of space heating to achieve energy use equivalent to that used in typical buildings constructed with:~~

~~(i) Ceilings insulated to a level of R-30 in zone 1 and R-38 in zone 2 the code shall contain an exception which permits single rafter or joist vaulted ceilings insulated to a level of R-30 (R value includes insulation only);~~

~~(ii) Walls insulated to a level of R-19 (R value includes insulation only), or constructed with two by four members, R-13 insulation batts, R-3.2 insulated sheathing, and other normal assembly components;~~

~~(iii) Below grade walls, insulated on the interior side, to a level of R-19 or, if insulated on the exterior side, to a level of R-10 in zone 1 and R-12 in zone 2 (R value includes insulation only);~~

~~(iv) Floors over unheated spaces insulated to a level of R-19 in zone 1 and R-30 in zone 2 (R value includes insulation only);~~

~~(v) Slab on grade floors insulated to a level of R-10 at the perimeter;~~

~~(vi) Heat pumps with a minimum heating season performance factor (HSPF) of 6.8 or with all other energy sources with a minimum annual fuel utilization efficiency (AFUE) of seventy-eight percent;~~

~~(vii) Double glazed windows with values not more than U-0.65 in zone 1 and U-0.60 in zone 2. The state building code council, in consultation with the department of community, trade, and economic development, shall review these U-values, and, if economically justified for consumers, shall amend the Washington state energy code to improve the U-values by December 1, 1993. The amendment shall not take effect until July 1, 1994; and~~

~~(viii) In zone 1, the maximum glazing area shall be twenty-one percent of the floor area. In zone 2 the maximum glazing area shall be seventeen percent of the floor area. Throughout the state for the purposes of determining equivalent thermal performance, the maximum glazing area shall be fifteen percent of the floor area.~~

~~(c) The requirements of (b)(ii) of this subsection do not apply to residences with log or solid timber walls with a minimum average thickness of three and one-half inches and with space heat other than electric resistance.~~

~~(d) The state building code council may approve an energy code for pilot projects of residential construction that use innovative energy efficiency technologies intended to result in savings that are greater than those realized in the levels specified in this section.~~

~~(5) U-values for glazing shall be determined using the area weighted average of all glazing in the building. U-values for vertical glazing shall be determined, certified, and labeled in accordance with the appropriate national fenestration rating council (NFRC) standard, as determined and adopted by the state building code council. Certification of U-values shall be conducted by a certified, independent agency licensed by the NFRC. The state building code council may develop and adopt alternative methods of determining, certifying, and labeling U-values for vertical glazing that may be used by fenestration manufacturers if determined to be appropriate by the council. The state building code council shall review and consider the adoption of the NFRC standards for determining, certifying, and labeling U-values for doors and skylights when developed and published by the NFRC. The state building code council may develop and adopt appropriate alternative methods for determining, certifying, and labeling U-values for doors and skylights. U-values for doors and skylights determined, certified, and labeled in accordance with the appropriate NFRC standard shall be acceptable for compliance with the state energy code. Sealed insulation glass, where used, shall conform to, or be in the process of being tested for, ASTM E-774-81 class A or better~~)) be the 2006 edition of the Washington state energy code, or as amended by rule by the council.

(((~~(6)~~))) (5) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, ((~~1986~~)) 2006 edition, or as amended by the council by rule.

(((~~(7)~~))) (6)(a) Except as provided in (b) of this subsection, the Washington state energy code for residential structures shall preempt the residential energy code of each city, town, and county in the state of Washington.

(b) The state energy code for residential structures does not preempt a city, town, or county's energy code for residential structures which exceeds the requirements of the state energy code ((~~and which was adopted by the city, town, or county prior to March 1, 1990. Such cities, towns, or counties may not subsequently amend~~

~~their energy code for residential structures to exceed the requirements adopted prior to March 1, 1990~~)).

(((~~(8)~~))) (7) The state building code council shall consult with the department of community, trade, and economic development as provided in RCW 34.05.310 prior to publication of proposed rules. ((~~The department of community, trade, and economic development shall review the proposed rules for consistency with the guidelines adopted in subsection (4) of this section.~~)) The director of the department of community, trade, and economic development shall recommend to the state building code council any changes necessary to conform the proposed rules to the requirements of this section.

(8) The state building code council shall evaluate and consider adoption of the international energy conservation code in Washington state in place of the existing state energy code.

(9) The definitions in section 2 of this act apply throughout this section.

NEW SECTION. Sec. 5. (1) Except as provided in subsection (2) of this section, residential and nonresidential construction permitted under the 2031 state energy code must achieve a seventy percent reduction in annual net energy consumption, using the adopted 2006 Washington state energy code as a baseline.

(2) The council shall adopt state energy codes from 2013 through 2031 that incrementally move towards achieving the seventy percent reduction in annual net energy consumption as specified in subsection (1) of this section. The council shall report its progress by December 31, 2012, and every three years thereafter. If the council determines that economic, technological, or process factors would significantly impede adoption of or compliance with this subsection, the council may defer the implementation of the proposed energy code update and shall report its findings to the legislature by December 31st of the year prior to the year in which those codes would otherwise be enacted.

NEW SECTION. Sec. 6. (1) On and after January 1, 2010, qualifying utilities shall maintain records of the energy consumption data of all nonresidential and qualifying public agency buildings to which they provide service. This data must be maintained for at least the most recent twelve months in a format compatible for uploading to the United States environmental protection agency's energy star portfolio manager.

(2) On and after January 1, 2010, upon the written authorization or secure electronic authorization of a nonresidential building owner or operator, a qualifying utility shall upload the energy consumption data for the accounts specified by the owner or operator for a building to the United States environmental protection agency's energy star portfolio manager in a form that does not disclose personally identifying information.

(3) In carrying out the requirements of this section, a qualifying utility shall use any method for providing the specified data in order to maximize efficiency and minimize overall program cost. Qualifying utilities are encouraged to consult with the United States environmental protection agency and their customers in developing reasonable reporting options.

(4) Disclosure of nonpublic nonresidential benchmarking data and ratings required under subsection (5) of this section will be phased in as follows:

(a) By January 1, 2011, for buildings greater than fifty thousand square feet; and

(b) By January 1, 2012, for buildings greater than ten thousand square feet.

(5) Based on the size guidelines in subsection (4) of this section, a building owner or operator, or their agent, of a nonresidential building shall disclose the United States environmental protection agency's energy star portfolio manager benchmarking data and ratings to a prospective buyer, lessee, or lender for the most recent continuously occupied twelve-month period. A building owner or operator, or their agent, who delivers United States environmental protection agency's energy star portfolio manager benchmarking data and ratings to a prospective buyer, lessee, or lender is not required to provide additional information regarding energy consumption, and the information is deemed to be adequate to inform the prospective buyer, lessee, or lender regarding the United States environmental protection agency's energy star portfolio manager benchmarking data and ratings for the most recent twelve-month period for the building that is being sold, leased, financed, or refinanced.

(6) Notwithstanding subsections (4) and (5) of this section, nothing in this section increases or decreases the duties, if any, of a building owner, operator, or their agent under this chapter or alters the duty of a seller, agent, or broker to disclose the existence of a material fact affecting the real property.

NEW SECTION. Sec. 7. By December 31, 2009, the department shall recommend to the legislature a methodology to determine an energy performance score for residential buildings and an implementation strategy to use such information to improve the energy efficiency of the state's existing housing supply. In developing its strategy, the department shall seek input from providers of residential energy audits, utilities, building contractors, mixed use developers, the residential real estate industry, and real estate listing and form providers.

NEW SECTION. Sec. 8. (1) By July 1, 2010, each qualifying public agency shall:

(a) Create an energy benchmark for each reporting public facility using a portfolio manager;

(b) Report to general administration, the environmental protection agency national energy performance rating for each reporting public facility included in the technical requirements for this rating; and

(c) Link all portfolio manager accounts to the state portfolio manager master account to facilitate public reporting.

(2) By January 1, 2010, general administration shall establish a state portfolio manager master account. The account must be designed to provide shared reporting for all reporting public facilities.

(3) By July 1, 2010, general administration shall select a standardized portfolio manager report for reporting public facilities. General administration, in collaboration with the United States environmental protection agency, shall make the standard report of each reporting public facility available to the public through the portfolio manager web site.

(4) General administration shall prepare a biennial report summarizing the statewide portfolio manager master account reporting data. The first report must be completed by December 1, 2012. Subsequent reporting shall be completed every two years thereafter.

(5) By July 1, 2010, general administration shall develop a technical assistance program to facilitate the implementation of a preliminary audit and the investment grade energy audit. General administration shall design the technical assistance program to utilize audit services provided by utilities or energy services contracting companies when possible.

(6) For each reporting public facility with a national energy performance rating score below fifty, the qualifying public agency, in consultation with general administration, shall undertake a preliminary energy audit by July 1, 2011. If potential cost-effective energy savings are identified, an investment grade energy audit must be completed by July 1, 2013. Implementation of cost-effective

energy conservation measures are required by July 1, 2016. For a major facility that is leased by a state agency, college, or university, energy audits and implementation of cost-effective energy conservation measures are required only for that portion of the facility that is leased by the state agency, college, or university.

(7) Schools are strongly encouraged to follow the provisions in subsections (1) through (6) of this section.

(8) The director of the department of general administration, in consultation with the affected state agencies and the office of financial management, shall review the cost and delivery of agency programs to determine the viability of relocation when a facility leased by the state has a national energy performance rating score below fifty. The department of general administration shall establish a process to determine viability.

(9) By July 1, 2011, general administration shall conduct a review of facilities not covered by the national energy performance rating. Based on this review, general administration shall develop a portfolio of additional facilities that require preliminary energy audits. For these facilities, the qualifying public agency, in consultation with general administration, shall undertake a preliminary energy audit by July 1, 2012. If potential cost-effective energy savings are identified, an investment grade energy audit must be completed by July 1, 2013.

NEW SECTION. Sec. 9. Sections 2, 3, and 5 through 8 of this act are each added to chapter 19.27A RCW.

NEW SECTION. Sec. 10. Provisions of sections 3, 7, and 8 of this act shall be in effect only during fiscal periods in which specific appropriations are provided referencing this act or chapter number and the relevant section number."

Correct the title.

Signed by Representatives McCoy, Chair; Eddy, Vice Chair; Carlyle; Finn; Hasegawa; Hudgins; Jacks; Morris; Takko and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representatives Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Condotta; DeBolt; Herrera and McCune.

Referred to Committee on General Government Appropriations.

March 23, 2009

ESSB 5901 Prime Sponsor, Committee on Economic Development, Trade & Innovation: Modifying provisions of the local infrastructure financing tool program. Reported by Committee on Community & Economic Development & Trade

MAJORITY recommendation: Do pass. Signed by Representatives Kenney, Chair; Maxwell, Vice Chair; Smith, Ranking Minority Member; Liias; Orcutt; Parker; Probst and Sullivan.

MINORITY recommendation: Do not pass. Signed by Representative Chase.

Passed to Committee on Rules for second reading.

March 23, 2009

E2SSB 5916 Prime Sponsor, Committee on Ways & Means: Authorizing the department of information services to engage in high-speed internet adoption, deployment, and digital inclusion activities. (REVISED FOR ENGROSSED: Regarding broadband adoption and deployment.) Reported by Committee on Technology, Energy & Communications

MAJORITY recommendation: Do pass as amended:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds and declares the following:

(1) The deployment and adoption of high-speed internet services and technology advancements enhance economic development and public safety for the state's communities, and offers improved health care, access to consumer and legal services, increased educational and civic participation opportunities, and a better quality of life for the state's residents.

(2) Improvements in the deployment and adoption of high-speed internet services and the strategic inclusion of technology advancements and technology education are critical to ensuring that Washington remains competitive and continues to provide a skilled workforce, attract businesses, and stimulate job growth.

(3) The state must encourage and support strategic partnerships of public, private, nonprofit, and community-based sectors in the continued growth and development of high-speed internet services and information technology for state residents and businesses. This includes ensuring digital inclusion in internet access, computer literacy, and information content, so that all Washingtonians are able to obtain and utilize broadband fully, regardless of location, economic status, literacy level, age, disability, size of business, or business entity structure.

(4) In light of the importance of broadband deployment and adoption to the economy, health, safety, and welfare of the people of Washington, it is essential that the legislature authorize a broadband programs management structure and an advisory council capable of developing and ensuring the implementation of statewide broadband strategies.

Sec. 2. RCW 28B.32.010 and 2008 c 262 s 6 are each amended to read as follows:

The community technology opportunity program is created to support the efforts of community technology programs throughout the state. The community technology opportunity program must be administered by the ((~~Washington State University extension, in consultation with the~~)) department of information services. The ((~~Washington State University extension~~)) department may contract for services in order to carry out the ((~~extension's~~)) department's obligations under this section.

(1) In implementing the community technology opportunity program the administrator must, to the extent funds are appropriated for this purpose:

(a) Provide organizational and capacity building support to community technology programs throughout the state, and identify and facilitate the availability of other public and private sources of funds to enhance the purposes of the program and the work of community technology programs. No more than fifteen percent of funds received by the administrator for the program may be expended on these functions;

(b) Establish a competitive grant program and provide grants to community technology programs to provide training and skill-building opportunities; access to hardware and software; internet connectivity; assistance in the adoption of information and

communication technologies in low-income and underserved areas of the state; and development of locally relevant content and delivery of vital services through technology.

(2) Grant applicants must:

(a) Provide evidence that the applicant is a nonprofit entity or a public entity that is working in partnership with a nonprofit entity;

(b) Define the geographic area or population to be served;

(c) Include in the application the results of a needs assessment addressing, in the geographic area or among the population to be served: The impact of inadequacies in technology access or knowledge, barriers faced, and services needed;

(d) Explain in detail the strategy for addressing the needs identified and an implementation plan including objectives, tasks, and benchmarks for the applicant and the role that other organizations will play in assisting the applicant's efforts;

(e) Provide evidence of matching funds and resources, which are equivalent to at least one-quarter of the grant amount committed to the applicant's strategy;

(f) Provide evidence that funds applied for, if received, will be used to provide effective delivery of community technology services in alignment with the goals of this program and to increase the applicant's level of effort beyond the current level; and

(g) Comply with such other requirements as the administrator establishes.

(3) The administrator may use no more than ten percent of funds received for the community technology opportunity program to cover administrative expenses.

(4) The administrator must establish expected program outcomes for each grant recipient and must require grant recipients to provide an annual accounting of program outcomes.

Sec. 3. RCW 28B.32.020 and 2008 c 262 s 7 are each amended to read as follows:

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

(1) "Administrator" means the community technology opportunity program administrator designated by the ((~~Washington State University extension~~)) department.

(2) "Community technology programs" means ((~~a program, including a digital inclusion program, engaged in diffusing information and communications technology in local communities, particularly in underserved areas. These programs may include, but are not limited to, programs that provide education and skill-building opportunities, hardware and software, internet connectivity, and development of locally relevant content and delivery of vital services through technology~~)) programs that are engaged in diffusing information and communications technology in local communities, particularly in unserved and underserved areas of the state. These programs may include, but are not limited to, programs that provide education and skill-building opportunities, hardware and software, internet connectivity, development of locally relevant content, and delivery of vital services through technology. Community technology programs are usually provided by nonprofit or public agencies in public community settings, including youth and community centers, small business and workforce training centers, mutual assistance associations and settlement houses, low-income housing units, libraries, or schools opened for community programs.

(3) "Department" means the department of information services.

Sec. 4. RCW 28B.32.030 and 2008 c 262 s 8 are each amended to read as follows:

The Washington community technology opportunity account is established in the state treasury. Donated funds from private and public sources may be deposited into the account. Expenditures from the account may be used only for the operation of the community technology opportunity program as provided in RCW 28B.32.010 (as recodified by this act). Only the administrator or the administrator's designee may authorize expenditures from the account.

NEW SECTION. Sec. 5. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Broadband" means a high-speed, high capacity transmission medium, using land-based, satellite, wireless, or any other mechanism, that can carry either signals or transmit data, or both, over long distances by using a wide range of frequencies with a minimum download speed greater than or equal to seven hundred sixty-eight kilobits per second and an upload speed greater than two hundred kilobits per second.

(2) "Council" means the advisory council on digital inclusion created in section 7 of this act.

(3) "Department" means the department of information services.

(4) "High-speed internet" means broadband.

(5) "Underserved areas" means: (a) Areas in which high-speed internet download speeds are less than seven hundred sixty-eight kilobits per second and upload speeds are less than two hundred kilobits per second; (b) any census tract that is located in a federally designated empowerment zone, enterprise community, renewal community, or low-income community; (c) an area with a significant population of economically disadvantaged residents; or (d) an area in which a significant population of the residents are not able to adopt broadband because of disability, affordability of computers or software, or a lack of technological literacy.

NEW SECTION. Sec. 6. (1) The authority for overseeing broadband adoption and deployment efforts in the state is vested in the department of information services.

(a) The department is the single eligible entity in the state to receive a grant under the federal broadband data improvement act, P.L. 110-385.

(b) Funding received by the department under the federal broadband data improvement act, P.L. 110-385, must be used in accordance with the requirements of that act and, subject to those requirements, may be distributed by the department on a competitive basis to other entities in the state to achieve the purposes of that act.

(2) The department may apply for and oversee implementation of federally funded or mandated broadband programs and may adopt rules to administer the programs. These programs may include but are not limited to the following:

(a) Contracting for and purchasing a completed map of privately controlled or owned broadband infrastructure. The map may include, but is not limited to, adoption information, availability information, types of technology used, the physical location of broadband infrastructure, and available speed tiers for high-speed internet;

(b) Engaging in periodic statewide surveys of residents, businesses, and nonprofit organizations concerning their use and adoption of high-speed internet and related information technology for the purpose of identifying barriers to adoption;

(c) Working with communities to identify barriers to the adoption of broadband service and related information technology services by individuals, nonprofit organizations, and businesses;

(d) Identifying broadband demand opportunities in communities by working cooperatively with local organizations, government agencies, and businesses;

(e) Creating, implementing, and administering programs to improve computer ownership, technology literacy, and high-speed internet access for populations not currently served or underserved in the state. This may include programs to provide low-income families, community-based nonprofit organizations, nonprofit

entities, and public entities that work in partnership with nonprofit entities to provide increased access to computers and broadband, with reduced cost internet access;

(f) Administering the community technology opportunity program under chapter 28B.32 RCW (as recodified by this act); and

(g) Creating additional programs to spur the development of high-speed internet resources in the state, which may include, but is not limited to:

(i) Applying for and receiving funding in the form of grants or donations which may be deposited into the Washington community technology opportunity account created in RCW 28B.32.030 (as recodified by this act);

(ii) Establishing technology literacy and digital inclusion programs and establishing low-cost hardware and software purchasing programs;

(iii) Developing last-mile technology loan programs targeting small businesses or businesses located in unserved and underserved areas; and

(iv) Including community technology organizations in state hardware and software purchasing programs.

NEW SECTION. Sec. 7. (1) The department shall reconvene the high-speed internet work group previously established by chapter 262, Laws of 2008. The work group is renamed the advisory council on digital inclusion, and is an advisory group to the department. The council must include, but is not limited to, volunteer representatives from community technology organizations, telecommunications providers, higher education institutions, K-12 education institutions, public health institutions, public housing entities, local governments, and governmental entities that are engaged in community technology activities.

(2) The council shall prepare a report by January 15th of each year and submit it to the department, the governor, and the appropriate committees of the legislature. The report must contain:

(a) An analysis of how support from public and private sector partnerships, the philanthropic community, and other not-for-profit organizations in the community, along with strong relationships with the state board for community and technical colleges, the higher education coordinating board, and higher education institutions, could establish a variety of high-speed internet access alternatives for citizens;

(b) Proposed strategies for continued broadband deployment and adoption efforts, as well as further development of advanced telecommunications applications;

(c) Recommendations on methods for maximizing the state's research and development capacity at universities and in the private sector for developing advanced telecommunications applications;

(d) An identification of barriers that hinder the advancement of technology entrepreneurship in the state and recommendations on incentives to stimulate the demand for and development of these applications and services; and

(e) An evaluation of programs designed to advance digital literacy and computer access that are made available by the federal government, local agencies, telecommunications providers, and business and charitable entities.

Sec. 8. RCW 43.105.350 and 2008 c 262 s 3 are each amended to read as follows:

(1) For purposes of compliance with section 2, chapter 262, Laws of 2008 or any subsequent high-speed internet deployment and adoption initiative, the department ((~~of information services~~)), the department of community, trade, and economic development, the utilities and transportation commission, and any other government agent or agency ((~~shall not~~)) engaged in the high-speed internet mapping, deployment, or adoption activities prescribed in this chapter may gather or request any information related to high-speed internet infrastructure or service from providers of telecommunications or high-speed internet services that is classified by the provider as proprietary or competitively sensitive, as long as the proprietary or competitively sensitive components of such information is maintained in a confidential manner solely by a nongovernmental third-party mapping entity as described in this chapter and as long as the relevant aggregated information is made available to the department or government agent or agency.

(2) Nothing in this section may be construed as limiting the authority of a state agency or local government to gather or request information from providers of telecommunications or high-speed internet services for other purposes pursuant to its statutory authority.

NEW SECTION. Sec. 9. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 10. Sections 1, 5, 6, 7, and 9 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 11. RCW 28B.32.010, 28B.32.020, 28B.32.030, 28B.32.900, and 28B.32.901 are each recodified as a new chapter in Title 43 RCW.

NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 13. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2009.

NEW SECTION. Sec. 14. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives McCoy, Chair; Eddy, Vice Chair; Carlyle; Finn; Hasegawa; Hudgins; Jacks; Morris; Takko and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representatives Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Condotta; DeBolt; Herrera and McCune.

Referred to Committee on Ways & Means.

There being no objection, the bills listed on the day's committee reports under the fifth order of business were referred to the committees so designated.

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., March 27, 2009, the 75th Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk