SIXTY-FIRST LEGISLATURE - REGULAR SESSION

ONE HUNDRED SECOND DAY

House Chamber, Olympia, Thursday, April 23, 2009

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

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Brandon Miller and Adam Kinkley. The Speaker (Representative Moeller presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Mike Fogaras, Gateway Christian Center, Lacey.

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

INTRODUCTION AND FIRST READING

HB 2383 by Representatives Simpson and Van De Wege

AN ACT Relating to the international wildland urban interface code; and amending RCW 19.27.031.

Referred to Committee on Local Government & Housing.

HB 2384 by Representatives Quall and Ormsby

AN ACT Relating to providing salary bonuses for nationally certified educational staff associates; and amending RCW 28A.405.415.

Referred to Committee on Education.

HB 2385 by Representatives Williams, Green, Appleton, Ormsby, Nelson, Sells, Chase, Dunshee, Simpson and Hasegawa

AN ACT Relating to improving unemployment benefits; and amending RCW 50.20.050, 50.20.100, 50.20.119, and 50.20.120.

Referred to Committee on Commerce & Labor.

ESSB 5557 by Senate Committee on Ways & Means (originally sponsored by Senator Pridemore)

AN ACT Relating to adopting the recommendations of the citizen commission for performance measurement of tax preferences concerning calculation of the business and occupation tax deduction for radio and television broadcasting, reporting data on the community benefits of nonprofit nursing homes and hospitals, and a property tax exemption for airports belonging to municipalities of adjoining states; amending RCW 82.04.280, 82.04.280, and 84.36.840; amending 2006 c 300 s 12 (uncodified); adding a new section to chapter 82.04 RCW; creating new sections; repealing RCW 84.36.130; providing an effective date; providing a contingent effective date; providing an expiration date; providing a contingent expiration date; and declaring an emergency.

Referred to Committee on Finance.

ESB 5915 by Senators Prentice and Fairley

AN ACT Relating to authorizing emergency rule making when necessary to implement budget appropriations and reductions; amending RCW 34.05.350; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6002 by Senators Keiser and Pridemore

AN ACT Relating to the Washington state quality forum; amending RCW 70.56.030; and repealing RCW 41.05.029.

Referred to Committee on Ways & Means.

SB 6126 by Senators Prentice and Tom

AN ACT Relating to boxing, martial arts, and wrestling events; and amending RCW 67.08.050, 67.08.055, 67.08.105, and 43.24.150.

Referred to Committee on Ways & Means.

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

MESSAGE FROM THE SENATE

April 22, 2009

Mr. Speaker:

The Senate has passed:

ENGROSSED SENATE BILL NO. 6166,
ENGROSSED SENATE BILL NO. 6183,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

MESSAGE FROM THE SENATE

April 17, 2009

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1527 with the following amendment:

On page 2, beginning on line 36, after "services," strike all material down to and including line 3 on page 3 and insert "the department shall comply with all public notice and hearing requirements of the administrative procedures act, chapter 34.05 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House advanced to the seventh order of business.

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House did not concur in the Senate amendment to HOUSE BILL NO. 1527 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 16, 2009

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1776 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 84.52.0531 and 2009 c 4 s 908 are each amended to read as follows:

The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be determined as follows:

(1) For excess levies for collection in calendar year 1997, the maximum dollar amount shall be calculated pursuant to the laws and rules in effect in November 1996.

(2) For excess levies for collection in calendar year 1998 and thereafter, the maximum dollar amount shall be the sum of (a) plus or minus (b) and (c) of this subsection minus (d) of this subsection:

(a) The district's levy base as defined in subsections (3) and (4) of this section multiplied by the district's maximum levy percentage as defined in subsection (5) of this section;

(b) For districts in a high/nonhigh relationship, the high school district's maximum levy amount shall be reduced and the nonhigh school district's maximum levy amount shall be increased by an amount equal to the estimated amount of the nonhigh payment due to the high school district under RCW 28A.545.030(3) and 28A.545.050 for the school year commencing the year of the levy;

(c) For districts in an interdistrict cooperative agreement, the nonresident school district's maximum levy amount shall be reduced and the resident school district's maximum levy amount shall be increased by an amount equal to the per pupil basic education allocation included in the nonresident district's levy base under subsection (3) of this section multiplied by:

(i) The number of full-time equivalent students served from the resident district in the prior school year; multiplied by:

(ii) The serving district's maximum levy percentage determined under subsection (5) of this section; increased by:

(iii) The percent increase per full-time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year divided by fifty-five percent;

(d) The district's maximum levy amount shall be reduced by the maximum amount of state matching funds for which the district is eligible under RCW 28A.500.010.

(3) For excess levies for collection in calendar year 2005 and thereafter, a district's levy base shall be the sum of allocations in (a) through (c) of this subsection received by the district for the prior school year and the amounts determined under subsection (4) of this section, including allocations for compensation increases, plus the sum of such allocations multiplied by the percent increase per full time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year and divided by fifty-five percent. A district's levy base shall not include local school district property tax levies or other local revenues, or state and federal allocations not identified in (a) through (c) of this subsection.

(a) The district's basic education allocation as determined pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

(b) State and federal categorical allocations for the following programs:

(i) Pupil transportation;

(ii) Special education;

(iii) Education of highly capable students;

(iv) Compensatory education, including but not limited to learning assistance, migrant education, Indian education, refugee programs, and bilingual education;

(v) Food services; and

(vi) Statewide block grant programs; and

(c) Any other federal allocations for elementary and secondary school programs, including direct grants, other than federal impact aid funds and allocations in lieu of taxes.

(4) For levy collections in calendar years 2005 through ((~~2011~~)) 2014, in addition to the allocations included under subsection (3)(a) through (c) of this section, a district's levy base shall also include the following:

(a) The difference between the allocation the district would have received in the current school year ((~~had RCW 84.52.068 not been amended by chapter 19, Laws of 2003 1st sp. sess.~~)) using the Initiative 728 base and the allocation the district received in the current school year pursuant to RCW 84.52.068((~~. The office of the superintendent of public instruction shall offset the amount added to a district's levy base pursuant to this subsection (4)(a) by any additional per student allocations included in a district's levy base pursuant to the enactment of an initiative to the people subsequent to June 10, 2004~~)); and

(b) The difference between the allocations the district would have received the prior school year ((~~had RCW 28A.400.205 not been amended by chapter 20, Laws of 2003 1st sp. sess.~~)) using the Initiative 732 base and the allocations the district actually received the prior school year pursuant to RCW 28A.400.205. ((~~The office of the superintendent of public instruction shall offset the amount added to a district's levy base pursuant to this subsection (4)(b) by any additional salary increase allocations included in a district's levy base pursuant to the enactment of an initiative to the people subsequent to June 10, 2004.~~))

(5) A district's maximum levy percentage shall be twenty-two percent in 1998 and twenty-four percent in 1999 and every year thereafter; plus, for qualifying districts, the grandfathered percentage determined as follows:

(a) For 1997, the difference between the district's 1993 maximum levy percentage and twenty percent; and

(b) For 1998 and thereafter, the percentage calculated as follows:

(i) Multiply the grandfathered percentage for the prior year times the district's levy base determined under subsection (3) of this section;

(ii) Reduce the result of (b)(i) of this subsection by any levy reduction funds as defined in subsection (6) of this section that are to be allocated to the district for the current school year;

(iii) Divide the result of (b)(ii) of this subsection by the district's levy base; and

(iv) Take the greater of zero or the percentage calculated in (b)(iii) of this subsection.

(6) "Levy reduction funds" shall mean increases in state funds from the prior school year for programs included under subsections (3) and (4) of this section: (a) That are not attributable to enrollment changes, compensation increases, or inflationary adjustments; and (b) that are or were specifically identified as levy reduction funds in the appropriations act. If levy reduction funds are dependent on formula factors which would not be finalized until after the start of the current school year, the superintendent of public instruction shall estimate the total amount of levy reduction funds by using prior school year data in place of current school year data. Levy reduction funds shall not include moneys received by school districts from cities or counties.

(7) ((~~For the purposes of this section,~~)) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Prior school year" means the most recent school year completed prior to the year in which the levies are to be collected.

(((~~8) For the purposes of this section.~~)) (b) "Current school year" means the year immediately following the prior school year.

(c) "Initiative 728 base" means the allocation to the student achievement fund for the prior year that would have been made under chapter 3, Laws of 2001, as approved by the voters, if all annual adjustments to the initial 2001 allocation had been made in previous years and in each subsequent year as provided for under chapter 3, Laws of 2001.

(d) "Initiative 732 base" means the prior year's annual salary cost-of-living increases as they would have been calculated under chapter 4, Laws of 2001, as approved by the voters, if each annual cost-of-living increase had been made in previous years and in each subsequent year as provided for under chapter 4, Laws of 2001.

(9) Funds collected from transportation vehicle fund tax levies shall not be subject to the levy limitations in this section.

(10) The superintendent of public instruction shall develop rules ((~~and regulations~~)) and inform school districts of the pertinent data necessary to carry out the provisions of this section.

(11) For calendar year 2009, the office of the superintendent of public instruction shall recalculate school district levy authority to reflect levy rates certified by school districts for calendar year 2009.

NEW SECTION. Sec. 2. A new section is added to chapter 84.52 RCW to read as follows:

The legislature recognizes that school districts request voter approval for two-year through four-year levies based on their projected levy capacities at the time that the levies are submitted to the voters. It is the intent of the legislature to permit school districts with voter-approved maintenance and operation levies to seek an additional approval from the voters, if subsequently enacted legislation would permit a higher levy.

Sec. 3. RCW 84.52.053 and 2007 c 129 s 3 are each amended to read as follows:

(1) The limitations imposed by RCW 84.52.050 through 84.52.056, and 84.52.043 shall not prevent the levy of taxes by school districts, when authorized so to do by the voters of such school district in the manner and for the purposes and number of years allowable under Article VII, section 2(a) of the Constitution of this state. Elections for such taxes shall be held in the year in which the levy is made or, in the case of propositions authorizing two-year through four-year levies for maintenance and operation support of a school district, authorizing two-year levies for transportation vehicle funds established in RCW 28A.160.130, or authorizing two-year through six-year levies to support the construction, modernization, or remodeling of school facilities, which includes the purposes of RCW 28A.320.330(2)(f), in the year in which the first annual levy is made.

(2) Once additional tax levies have been authorized for maintenance and operation support of a school district for a two-year through four- year period as provided under subsection (1) of this section, no further additional tax levies for maintenance and operation support of the district for that period may be authorized, except for additional levies to provide for subsequently enacted increases affecting the district's levy base or maximum levy percentage. For the purpose of applying the limitation of this subsection, a two-year through six-year levy to support the construction, modernization, or remodeling of school facilities shall not be deemed to be a tax levy for maintenance and operation support of a school district.

(3) A special election may be called and the time therefor fixed by the board of school directors, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no".

Sec. 4. 2006 c 119 s 3 (uncodified) is amended to read as follows:

This act expires January 1, ((~~2012~~)) 2015.

Sec. 5. 2009 c 4 s 909 (uncodified) is amended to read as follows:

Section 908 of this act expires January 1, ((~~2012~~)) 2015."

On page 1, line 1 of the title, after "levies;" strike the remainder of the title and insert "amending RCW 84.52.0531 and 84.52.053; amending 2006 c 119 s 3 (uncodified); amending 2009 c 4 s 909 (uncodified); adding a new section to chapter 84.52 RCW; and providing expiration dates."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House advanced to the seventh order of business.

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House did not concur in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1776 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 17, 2009

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2125 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.167.020 and 2007 c 501 s 4 are each amended to read as follows:

(1) A community preservation and development authority shall have the power to:

(a) Accept gifts, grants, loans, or other aid from public or private entities; ((~~and~~

~~(b) Exercise such additional powers as may be authorized by law~~))

(b) Employ and appoint such agents, attorneys, officers, and employees as may be necessary to implement the purposes and duties of an authority;

(c) Contract and enter into partnerships with individuals, associations, corporations, and local, state, and federal governments;

(d) Buy, own, lease, and sell real and personal property;

(e) Hold in trust, improve, and develop land;

(f) Invest, deposit, and reinvest its funds;

(g) Incur debt in furtherance of its mission; and

(h) Lend its funds, property, credit, or services for corporate purposes.

(2) A community preservation and development authority ((~~shall have~~)) has no power of eminent domain nor any power to levy taxes or special assessments.

(3) A community preservation and development authority that accepts public funds under subsection (1)(a) of this section:

(a) Is subject in all respects to Article VIII, section 5 or 7, as appropriate, of the state Constitution, and to RCW 42.17.128; and

(b) May not use the funds to support or oppose a candidate, ballot proposition, political party, or political committee.

Sec. 2. RCW 43.167.030 and 2007 c 501 s 5 are each amended to read as follows:

A community preservation and development authority shall have the duty to:

(1) Establish specific geographic boundaries for the authority within its bylaws based on the general geographic boundaries established in the proposal submitted and approved by the legislature;

(2) Solicit input from members of its community and develop a strategic preservation and development plan to restore and promote the health, safety, and economic well-being of the impacted community and to restore and preserve its cultural and historical identity;

(3) Include within the strategic plan a prioritized list of projects identified and supported by the community, including capital or operating components ((~~that address one or more of the purposes under section 1(3) of this act~~));

(4) Establish funding mechanisms to support projects and programs identified in the strategic plan including but not limited to grants and loans;

(5) Use gifts, grants, loans, and other aid from public or private entities to carry out projects identified in the strategic plan including, but not limited to, those that: (a) Enhance public safety; (b) reduce community blight; and (c) provide ongoing mitigation of the adverse effects of multiple publicly funded projects on the impacted community; and

(6) Demonstrate ongoing accountability for its actions by:

(a) Reporting to the appropriate committees of the legislature, one year after formation and every biennium thereafter, on the authority's strategic plan, activities, accomplishments, and any recommendations for statutory changes;

(b) Reporting any changes in the authority's geographic boundaries to the appropriate committees of the legislature when the legislature next convenes in regular session;

(c) Convening a local town hall meeting with its constituency on an annual basis to: (i) Report its activities and accomplishments from the previous year; (ii) present and receive input from members of the impacted community regarding its proposed strategic plan and activities for the upcoming year; and (iii) hold board member elections as necessary; and

(d) Maintaining books and records as appropriate for the conduct of its affairs."

On page 1, line 2 of the title, after "authorities;" strike the remainder of the title and insert "and amending RCW 43.167.020 and 43.167.030."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House advanced to the seventh order of business.

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House did not concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2125 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 20, 2009

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2327 with the following amendment:

Beginning on page 7, line 14, strike all of section 5

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

On page 17, beginning on line 9, strike all material through "1985 c 418 s 8;" on line 13

Renumber the remaining subsection consecutively.

On page 1, line 3 of the title, after "13.60.110," strike "74.13.031,"

On page 1, line 8 of the title, after "43.70.518," strike "43.215.080, 43.215.435,"

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House advanced to the seventh order of business.

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2327 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Ericks and Dammeier spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 2327, as amended by the Senate.

MOTIONS

On motion of Representative Santos, Representatives Kirby, Morris and Pettigrew were excused. On motion of Representative Hinkle, Representative Armstrong was excused.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2327, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Armstrong, Kirby, Morris and Pettigrew.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2327, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 19,2009

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 2328 with the following amendment:

On page 4, after line 37, insert the following:

"**NEW SECTION. Sec. 5.** (1) Within this section, "sensory disability" means a sensory condition that materially limits, contributes to limiting, or, if not corrected or accommodated, will probably result in limiting an individual's activities or functioning.

(2) The department of personnel shall adopt rules that authorize state agencies to provide allowances to employees with sensory disabilities who must attend training necessary to attain a new service animal. The employee's absence must be treated in the same manner as that granted to employees who are absent to attend training that supports or improves their job performance, except that the employee shall not be eligible for reimbursement under RCW 43.03.050 or 43.03.060. The department of personnel shall adopt rules as necessary to implement this chapter.

(3) If the necessity to attend training for a new service animal is foreseeable and the training will cause the employee to miss work, the employee shall provide the employer with not less than thirty days' notice, before the date the absence is to begin, of the employee's impending absence. If the date of the training requires the absence to begin in less than thirty days, the employee shall provide notice as is practicable.

(4) An agency may require that a request to attend service animal training be supported by a certification issued by the relevant training organization. The employee must provide, in a timely manner, a copy of the certification to the agency. Certification provided under this section is sufficient if it states: (a) The date on which the service animal training session is scheduled to commence; and (b) the session's duration.

NEW SECTION. Sec. 6. Section 5 of this act constitutes a new chapter in Title 49 RCW."

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

On page 1, line 3 of the title, after "(uncodified);" insert "adding a new chapter to Title 49 RCW;"

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House advanced to the seventh order of business.

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 2328 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Seaquist and Alexander spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of House Bill No. 2328, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2328, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Armstrong, Kirby, Morris and Pettigrew.

HOUSE BILL NO. 2328, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 21, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to SUBSTITUTE SENATE BILL NO. 5285, and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment to SUBSTITUTE SENATE BILL NO. 5285. Under the suspension of the rules, the bill was returned to second reading for purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SUBSTITUTE SENATE BILL NO. 5285, by Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Kauffman and Stevens)

Revising procedures for appointment of guardians ad litem.

Representative Goodman moved the adoption of amendment (787):

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 of state and national criminal identification data. The examination shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050, the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834, and the federal bureau of investigation. The background check shall be done through the Washington state patrol criminal identification section and must include a national check from the federal bureau of investigation based on the submission of fingerprints; 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."

Representatives Goodman and McCune spoke in favor of the adoption of the amendment.

Amendment (787) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Goodman and McCune spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5285, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5285, as amended by the House, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Armstrong, Kirby, Morris and Pettigrew.

SUBSTITUTE SENATE BILL NO. 5285, as amended by the House, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 20, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to SENATE BILL NO. 5354 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment to SENATE BILL NO. 5354. Under suspension of the rules, the bill was returned to second reading for purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SENATE BILL NO. 5354, by Senators Haugen and Ranker

Regarding public hospital capital facility areas.

Representative Simpson moved the adoption of amendment (847):

Beginning on page 1, line 18, after "islands" strike all material through "boundaries" on page 2, line 4, and insert "that receives medical services from a hospital district, but is prevented by geography and the absence of contiguous boundaries from annexing to that district"

Beginning on page 2, line 16, strike all of section 3 and insert the following:

"**NEW SECTION.** **Sec.** 3. ESTABLISHING A PUBLIC HOSPITAL CAPITAL FACILITY AREA--BALLOT PROPOSITIONS. (1)(a) Upon receipt of a completed petition to both establish a public hospital capital facility area and submit a ballot proposition under section 7 of this act to finance public hospital capital facilities and other capital health care facilities, the legislative authority of the county in which a proposed public hospital capital facility area is to be established shall submit separate ballot propositions to voters to authorize establishing the proposed public hospital capital facility area and authorizing the public hospital capital facility area, if established, to finance public hospital capital facilities or other capital health care facilities by issuing general indebtedness and imposing excess levies to retire the indebtedness. A petition submitted under this section must be accompanied by a written request to establish a public hospital capital facility area that is signed by a majority of the commissioners of the public hospital district serving the proposed area.

(b) The ballot propositions must be submitted to voters of the proposed public hospital capital facility area at a general or special election. If the proposed election date is not a general election, the county legislative authority is encouraged to request an election when another unit of local government with territory located in the proposed public hospital capital facility area is already holding a special election under RCW 29A.04.330. Approval of the ballot proposition to create a public hospital capital facility area requires a simple majority vote by the voters participating in the election.

(2) A completed petition submitted under this section must include:

(a) A description of the boundaries of the public hospital capital facility area; and

(b) A copy of a resolution of the legislative authority of each city, town, and hospital district with territory in the proposed public hospital capital facility area indicating both: (i) Approval of the creation of the proposed public hospital capital facility area; and (ii) agreement on how election costs will be paid for ballot propositions to voters that authorize the public hospital capital facility area to incur general indebtedness and impose excess levies to retire the general indebtedness."

On page 3, line 16, after "facility" insert "area"

On page 3, line 21, after "proposed" strike "district" and insert "public hospital capital facility area"

On page 5, at the beginning of line 36, strike "chapter 70.44 RCW" and insert "this chapter"

Representative Simpson spoke in favor of the adoption of the amendment.

Representative Orcutt spoke against the adoption of the amendment.

Amendment (847) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Simpson and Orcutt spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Senate Bill No. 5354, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5354, as amended by the House, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Armstrong, Kirby, Morris and Pettigrew.

SENATE BILL NO. 5354, as amended by the House, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 20, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to SUBSTITUTE SENATE BILL NO. 5777, and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment to SUBSTITUTE SENATE BILL NO. 5777. Under suspension of the rules, the bill was returned to second reading for purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SUBSTITUTE SENATE BILL NO. 5777, by Senate Committee on Health & Long-Term Care (originally sponsored by Senators Murray and Parlette)

Concerning the Washington state insurance pool.

Representative Cody moved the adoption of amendment (877):

Strike everything after the enacting clause and insert the following:

"**NEW SECTION.** **Sec. 1.** A new section is added to chapter 48.66 RCW to read as follows:

Any medicare eligible person who is rejected for medical reasons, is required to accept restrictive riders, an up-rated premium, or preexisting conditions limitations, the effect of which is to substantially reduce coverage from that received by a person

considered a standard risk by at least one member as defined in RCW 48.41.030(14) shall be provided written notice from the issuer of medicare supplement coverage to whom application was made of the decision not to accept the person's application for enrollment, or to require such restrictions. The notice shall further state that the person is eligible for medicare part C coverage offered in the person's geographic area or coverage provided by the Washington state health insurance pool for Washington residents, and shall include information about medicare part C plans offered in the person's geographic area, about the Washington state health insurance pool, and about available resources to assist the person in choosing appropriate coverage.

Sec. 2. RCW 48.41.060 and 2008 c 217 s 47 are each amended to read as follows:

(1) The board shall have the general powers and authority granted under the laws of this state to insurance companies, health care service contractors, and health maintenance organizations, licensed or registered to offer or provide the kinds of health coverage defined under this title. In addition thereto, the board shall:

(a) Designate or establish the standard health questionnaire to be used under RCW 48.41.100 and 48.43.018, including the form and content of the standard health questionnaire and the method of its application. The questionnaire must provide for an objective evaluation of an individual's health status by assigning a discreet measure, such as a system of point scoring to each individual. The questionnaire must not contain any questions related to pregnancy, and pregnancy shall not be a basis for coverage by the pool. The questionnaire shall be designed such that it is reasonably expected to identify the eight percent of persons who are the most costly to treat who are under individual coverage in health benefit plans, as defined in RCW 48.43.005, in Washington state or are covered by the pool, if applied to all such persons;

(b) Obtain from a member of the American academy of actuaries, who is independent of the board, a certification that the standard health questionnaire meets the requirements of (a) of this subsection;

(c) Approve the standard health questionnaire and any modifications needed to comply with this chapter. The standard health questionnaire shall be submitted to an actuary for certification, modified as necessary, and approved at least every ((~~eighteen~~)) thirty-six months. The designation and approval of the standard health questionnaire by the board shall not be subject to review and approval by the commissioner. The standard health questionnaire or any modification thereto shall not be used until ninety days after public notice of the approval of the questionnaire or any modification thereto, except that the initial standard health questionnaire approved for use by the board after March 23, 2000, may be used immediately following public notice of such approval;

(d) Establish appropriate rates, rate schedules, rate adjustments, expense allowances, claim reserve formulas and any other actuarial functions appropriate to the operation of the pool. Rates shall not be unreasonable in relation to the coverage provided, the risk experience, and expenses of providing the coverage. Rates and rate schedules may be adjusted for appropriate risk factors such as age and area variation in claim costs and shall take into consideration appropriate risk factors in accordance with established actuarial underwriting practices consistent with Washington state individual plan rating requirements under RCW 48.44.022 and 48.46.064;

(e)(i) Assess members of the pool in accordance with the provisions of this chapter, and make advance interim assessments as may be reasonable and necessary for the organizational or interim operating expenses. Any interim assessments will be credited as offsets against any regular assessments due following the close of the year.

(ii) Self-funded multiple employer welfare arrangements are subject to assessment under this subsection only in the event that assessments are not preempted by the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the commissioner shall initially request an advisory opinion from the United States department of labor or obtain a declaratory ruling from a federal court on the legality of imposing assessments on these arrangements before imposing the assessment. Once the legality of the assessments has been determined, the multiple employer welfare arrangement certified by the insurance commissioner must begin payment of these assessments.

(iii) If there has not been a final determination of the legality of these assessments, then beginning on the earlier of (A) the date the fourth multiple employer welfare arrangement has been certified by the insurance commissioner, or (B) April 1, 2006, the arrangement shall deposit the assessments imposed by this subsection into an interest bearing escrow account maintained by the arrangement. Upon a final determination that the assessments are not preempted by the employee retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., all funds in the interest bearing escrow account shall be transferred to the board;

(f) Issue policies of health coverage in accordance with the requirements of this chapter;

(g) Establish procedures for the administration of the premium discount provided under RCW 48.41.200(3)(a)(iii);

(h) Contract with the Washington state health care authority for the administration of the premium discounts provided under RCW 48.41.200(3)(a) (i) and (ii);

(i) Set a reasonable fee to be paid to an insurance producer licensed in Washington state for submitting an acceptable application for enrollment in the pool; and

(j) Provide certification to the commissioner when assessments will exceed the threshold level established in RCW 48.41.037.

(2) In addition thereto, the board may:

(a) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this chapter including the authority, with the approval of the commissioner, to enter into contracts with similar pools of other states for the joint performance of common administrative functions, or with persons or other organizations for the performance of administrative functions;

(b) Sue or be sued, including taking any legal action as necessary to avoid the payment of improper claims against the pool or the coverage provided by or through the pool;

(c) Appoint appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the pool, policy, and other contract design, and any other function within the authority of the pool; and

(d) Conduct periodic audits to assure the general accuracy of the financial data submitted to the pool, and the board shall cause the pool to have an annual audit of its operations by an independent certified public accountant.

(3) Nothing in this section shall be construed to require or authorize the adoption of rules under chapter 34.05 RCW.

Sec. 3. RCW 48.41.100 and 2007 c 259 s 30 are each amended to read as follows:

(1)(a) The following persons who are residents of this state are eligible for pool coverage:

((~~(a)~~)) (i) Any person who provides evidence of a carrier's decision not to accept him or her for enrollment in an individual health benefit plan as defined in RCW 48.43.005 based upon, and

within ninety days of the receipt of, the results of the standard health questionnaire designated by the board and administered by health carriers under RCW 48.43.018;

((~~(b)~~)) (ii) Any person who continues to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator pursuant to subsection (3) of this section;

((~~(c)~~)) (iii) Any person who resides in a county of the state where no carrier or insurer eligible under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool, and who makes direct application to the pool; ((~~and~~

~~(d)~~)) (iv) Any ((~~medicare eligible~~)) person ((~~upon providing~~)) becoming eligible for medicare before August 1, 2009, who provides evidence of (A) a rejection for medical reasons, (B) a requirement of restrictive riders, (C) an up-rated premium, ((~~or~~)) (D) a preexisting conditions limitation ((~~on a~~)), or (E) lack of access to or for a comprehensive medicare supplemental insurance policy under chapter 48.66 RCW, the effect of any of which is to substantially reduce coverage from that received by a person considered a standard risk by at least one member within six months of the date of application; and

(v) Any person becoming eligible for medicare on or after August 1, 2009, who does not have access to a reasonable choice of comprehensive medicare part C plans, as defined in (b) of this subsection, and who provides evidence of (A) a rejection for medical reasons, (B) a requirement of restrictive riders, (C) an up-rated premium, (D) a preexisting conditions limitation, or (E) lack of access to or for a comprehensive medicare supplemental insurance policy under chapter 48.66 RCW, the effect of any of which is to substantially reduce coverage from that received by a person considered a standard risk by at least one member within six months of the date of application.

(b) For purposes of (a)(v) of this subsection (1), a person does not have access to a reasonable choice of plans unless the person has a choice of health maintenance organization or preferred provider organization medicare part C plans offered by at least three different carriers that have had provider networks in the person's county of residence for at least five years. The plan options must include coverage at least as comprehensive as a plan F medicare supplement plan combined with medicare parts A and B. The plan options must also provide access to adequate and stable provider networks that make up- to-date provider directories easily accessible on the carrier web site, and will provide them in hard copy, if requested. In addition, if no health maintenance organization or preferred provider organization plan includes the health care provider with whom the person has an established care relationship and from whom he or she has received treatment within the past twelve months, the person does not have reasonable access.

(2) The following persons are not eligible for coverage by the pool:

(a) Any person having terminated coverage in the pool unless (i) twelve months have lapsed since termination, or (ii) that person can show continuous other coverage which has been involuntarily terminated for any reason other than nonpayment of premiums. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(b) Any person on whose behalf the pool has paid out two million dollars in benefits;

(c) Inmates of public institutions and those persons ((~~whose benefits are duplicated under public programs~~)) who become eligible for medical assistance after June 30, 2008, as defined in RCW 74.09.010. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(d) Any person who resides in a county of the state where any carrier or insurer regulated under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool and who does not qualify for pool coverage based upon the results of the standard health questionnaire, or pursuant to subsection (1)((~~(d)~~)) (a)(iv) of this section.

(3) When a carrier or insurer regulated under chapter 48.15 RCW begins to offer an individual health benefit plan in a county where no carrier had been offering an individual health benefit plan:

(a) If the health benefit plan offered is other than a catastrophic health plan as defined in RCW 48.43.005, any person enrolled in a pool plan pursuant to subsection (1)((~~(c)~~)) (a)(iii) of this section in that county shall no longer be eligible for coverage under that plan pursuant to subsection (1)((~~(c)~~)) (a)(iii) of this section, but may continue to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator. The pool administrator shall offer to administer the questionnaire to each person no longer eligible for coverage under subsection (1)((~~(c)~~)) (a)(iii) of this section within thirty days of determining that he or she is no longer eligible;

(b) Losing eligibility for pool coverage under this subsection (3) does not affect a person's eligibility for pool coverage under subsection (1)(a)(i), ((~~(b)~~)) (ii), or ((~~(d)~~)) (iv) of this section; and

(c) The pool administrator shall provide written notice to any person who is no longer eligible for coverage under a pool plan under this subsection (3) within thirty days of the administrator's determination that the person is no longer eligible. The notice shall: (i) Indicate that coverage under the plan will cease ninety days from the date that the notice is dated; (ii) describe any other coverage options, either in or outside of the pool, available to the person; (iii) describe the procedures for the administration of the standard health questionnaire to determine the person's continued eligibility for coverage under subsection (1)((~~(b)~~)) (a)(ii) of this section; and (iv) describe the enrollment process for the available options outside of the pool.

(4) The board shall ensure that an independent analysis of the eligibility standards for the pool coverage is conducted, including examining the eight percent eligibility threshold, eligibility for medicaid enrollees and other publicly sponsored enrollees, and the impacts on the pool and the state budget. The board shall report the findings to the legislature by December 1, 2007.

Sec. 4. RCW 48.41.100 and 2008 c 317 s 4 are each amended to read as follows:

(1)(a) The following persons who are residents of this state are eligible for pool coverage:

((~~(a)~~)) (i) Any person who provides evidence of a carrier's decision not to accept him or her for enrollment in an individual health benefit plan as defined in RCW 48.43.005 based upon, and within ninety days of the receipt of, the results of the standard health questionnaire designated by the board and administered by health carriers under RCW 48.43.018;

((~~(b)~~)) (ii) Any person who continues to be eligible for pool coverage based upon the results of the standard health questionnaire

designated by the board and administered by the pool administrator pursuant to subsection (3) of this section;

((~~(c)~~)) (iii) Any person who resides in a county of the state where no carrier or insurer eligible under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool, and who makes direct application to the pool; ((~~and~~

~~(d) Any medicare eligible person upon providing~~)) (iv) Any person becoming eligible for medicare before August 1, 2009, who provides evidence of (A) a rejection for medical reasons, (B) a requirement of restrictive riders, (C) an up-rated premium, ((~~or~~)) (D) a preexisting conditions limitation ((~~or a~~)), or (E) lack of access to or for a comprehensive medicare supplemental insurance policy under chapter 48.66 RCW, the effect of any of which is to substantially reduce coverage from that received by a person considered a standard risk by at least one member within six months of the date of application; and

(v) Any person becoming eligible for medicare on or after August 1, 2009, who does not have access to a reasonable choice of comprehensive medicare part C plans, as defined in (b) of this subsection, and who provides evidence of (A) a rejection for medical reasons, (B) a requirement of restrictive riders, (C) an up-rated premium, (D) a preexisting conditions limitation, or (E) lack of access to or for a comprehensive medicare supplemental insurance policy under chapter 48.66 RCW, the effect of any of which is to substantially reduce coverage from that received by a person considered a standard risk by at least one member within six months of the date of application.

(b) For purposes of (a)(v) of this subsection (1), a person does not have access to a reasonable choice of plans unless the person has a choice of health maintenance organization or preferred provider organization medicare part C plans offered by at least three different carriers that have had provider networks in the person's county of residence for at least five years. The plan options must include coverage at least as comprehensive as a plan F medicare supplement plan combined with medicare parts A and B. The plan options must also provide access to adequate and stable provider networks that make up- to-date provider directories easily accessible on the carrier web site, and will provide them in hard copy, if requested. In addition, if no health maintenance organization or preferred provider organization plan includes the health care provider with whom the person has an established care relationship and from whom he or she has received treatment within the past twelve months, the person does not have reasonable access.

(2) The following persons are not eligible for coverage by the pool:

(a) Any person having terminated coverage in the pool unless (i) twelve months have lapsed since termination, or (ii) that person can show continuous other coverage which has been involuntarily terminated for any reason other than nonpayment of premiums. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(b) Any person on whose behalf the pool has paid out two million dollars in benefits;

(c) Inmates of public institutions, and those persons who become eligible for medical assistance after June 30, 2008, as defined in RCW 74.09.010. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(d) Any person who resides in a county of the state where any carrier or insurer regulated under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool and who does not qualify for pool coverage based upon the results of the standard health questionnaire, or pursuant to subsection (1)((~~(d)~~)) (a)(iv) of this section.

(3) When a carrier or insurer regulated under chapter 48.15 RCW begins to offer an individual health benefit plan in a county where no carrier had been offering an individual health benefit plan:

(a) If the health benefit plan offered is other than a catastrophic health plan as defined in RCW 48.43.005, any person enrolled in a pool plan pursuant to subsection (1)((~~(c)~~)) (a)(iii) of this section in that county shall no longer be eligible for coverage under that plan pursuant to subsection (1)((~~(c)~~)) (a)(iii) of this section, but may continue to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator. The pool administrator shall offer to administer the questionnaire to each person no longer eligible for coverage under subsection (1)((~~(c)~~)) (a)(iii) of this section within thirty days of determining that he or she is no longer eligible;

(b) Losing eligibility for pool coverage under this subsection (3) does not affect a person's eligibility for pool coverage under subsection (1)(a)(i), ((~~(b)~~)) (ii), or ((~~(d)~~)) (iv) of this section; and

(c) The pool administrator shall provide written notice to any person who is no longer eligible for coverage under a pool plan under this subsection (3) within thirty days of the administrator's determination that the person is no longer eligible. The notice shall: (i) Indicate that coverage under the plan will cease ninety days from the date that the notice is dated; (ii) describe any other coverage options, either in or outside of the pool, available to the person; (iii) describe the procedures for the administration of the standard health questionnaire to determine the person's continued eligibility for coverage under subsection (1)((~~(b)~~)) (a)(ii) of this section; and (iv) describe the enrollment process for the available options outside of the pool.

(4) The board shall ensure that an independent analysis of the eligibility standards for the pool coverage is conducted, including examining the eight percent eligibility threshold, eligibility for medicaid enrollees and other publicly sponsored enrollees, and the impacts on the pool and the state budget. The board shall report the findings to the legislature by December 1, 2007.

NEW SECTION. Sec. 5. The board of the Washington state health insurance pool shall conduct a study of options for equitable, stable, and broad-based funding sources for the operation of the pool. The board is authorized to solicit funds to conduct the study. The board shall report its findings and recommendations to the appropriate committees of the senate and house of representatives by December 15, 2009.

NEW SECTION. Sec. 6. Section 3 of this act takes effect if section 4, chapter 317, Laws of 2008 is null and void on the effective date of this act; otherwise section 3 of this act is null and void.

NEW SECTION. Sec. 7. Section 4 of this act takes effect if section 4, chapter 317, Laws of 2008 is in effect on the effective date of this act; otherwise section 4 of this act is null and void."

Correct the title.

Representative Cody spoke in favor of the adoption of the amendment.

Amendment (877) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5777, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5777, as amended by the House, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Armstrong, Kirby and Morris.

SUBSTITUTE SENATE BILL NO. 5777, as amended by the House, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 21, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 5321 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

MOTION

Representative Hunter moved that the House recede from its amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 5321.

Representative Hunter spoke in favor of the motion to recede.

Representative Orcutt spoke against the motion to recede.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of the motion that the House recede from its amendment to Engrossed Substitute Senate Bill No. 5321.

ROLL CALL

The Clerk called the roll on the motion that the House recede from its amendment to Engrossed Substitute Senate Bill No. 5321 and the motion was adopted by the following vote: Yeas: 55; Nays: 40; Absent: 0; Excused: 3.

Voting yea: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Wallace, Walsh and Warnick.

Excused: Representatives Armstrong, Kirby and Morris.

The House receded from its amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 5321. Under suspension of the rules, the bill was returned to second reading for the purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5321, by Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Kline, Pflug, Berkey, Shin, Hobbs, McAuliffe, Tom, Keiser, Jarrett and Kauffman)

Extending a local sales and use tax that is credited against the state sales and use tax.

With the consent of the House, amendment (879) was withdrawn.

Representative Hunter moved the adoption of amendment (880):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.14.415 and 2006 c 361 s 1 are each amended to read as follows:

(1) The legislative authority of any city ((~~with a population less than four hundred thousand and which~~)) that is located in a county with a population greater than six hundred thousand that annexes an area consistent with its comprehensive plan required by chapter 36.70A RCW, may impose a sales and use tax in accordance with the terms of this chapter. 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 city. The tax may only be imposed by a city if:

(a) The city has commenced annexation of an area ((~~under chapter 35.13 or 35A.14 RCW~~)) having a population of at least ten thousand people, or four thousand in the case of a city described under subsection (3)(a)(i) of this section, prior to January 1, ((~~2010~~)) 2015; and

(b) The city legislative authority determines by resolution or ordinance that the projected cost to provide municipal services to the annexation area exceeds the projected general revenue that the city would otherwise receive from the annexation area on an annual basis.

(2) The tax authorized under this section is a credit against the state tax under chapter 82.08 or 82.12 RCW. The department of revenue shall perform the collection of such taxes on behalf of the city at no cost to the city and shall remit the tax to the city as provided in RCW 82.14.060.

(3)(a) Except as provided in (b) of this subsection, the maximum rate of tax any city may impose under this section ((~~shall be 0.2 percent for the total number of annexed areas the city may annex. The rate of the tax imposed under this section~~)) is:

(i) 0.1 percent for each annexed area in which the population ((~~that~~)) is greater than ten thousand and less than twenty thousand. ((~~The rate of the tax imposed under this section shall be~~)) The ten thousand population threshold in this subsection (3)(a)(i) is four thousand for a city with a population between one hundred fifteen thousand and one hundred forty thousand and located within a county with a population over one million five hundred thousand; and

(ii) 0.2 percent for an annexed area in which the population is greater than twenty thousand.

(b) Beginning July 1, 2011, the maximum rate of tax imposed under this section is 0.85 percent for an annexed area in which the population is greater than eighteen thousand if the annexed area was, prior to November 1, 2008, officially designated as a potential annexation area by more than one city, one of which has a population greater than four hundred thousand.

(4)(a) Except as provided in (b) of this subsection, the maximum cumulative rate of tax a city may impose under subsection (3)(a) of this section is 0.2 percent for the total number of annexed areas the city may annex.

(b) The maximum cumulative rate of tax a city may impose under subsection (3)(a) of this section is 0.3 percent, beginning July 1, 2011, if the city commenced annexation of an area, prior to January 1, 2010, that would have otherwise allowed the city to increase the rate of tax imposed under this section absent the rate limit imposed in (a) of this subsection.

(c) The maximum cumulative rate of tax a city may impose under subsection (3)(b) of this section is 0.85 percent for the single annexed area the city may annex and the amount of tax distributed to a city under subsection (3)(b) of this section shall not exceed five million dollars per fiscal year.

(5) The tax imposed by this section shall only be imposed at the beginning of a fiscal year and shall continue for no more than ten years from the date that each increment of the tax is first imposed. Tax rate increases due to additional annexed areas shall be effective on July 1st of the fiscal year following the fiscal year in which the annexation occurred, provided that notice is given to the department as set forth in subsection (((~~8~~))) (9) of this section.

(((~~5~~))) (6) All revenue collected under this section shall be used solely to provide, maintain, and operate municipal services for the annexation area.

(((~~6~~))) (7) The revenues from the tax authorized in this section may not exceed that which the city deems necessary to generate revenue equal to the difference between the city's cost to provide, maintain, and operate municipal services for the annexation area and the general revenues that the cities would otherwise expect to receive from the annexation during a year. If the revenues from the tax authorized in this section and the revenues from the annexation area exceed the costs to the city to provide, maintain, and operate municipal services for the annexation area during a given year, the city shall notify the department and the tax distributions authorized in this section shall be suspended for the remainder of the year.

(((~~7~~))) (8) No tax may be imposed under this section before July 1, 2007. Before imposing a tax under this section, the legislative authority of a city shall adopt an ordinance that includes the following:

(a) A certification that the amount needed to provide municipal services to the annexed area reflects the city's true and actual costs;

(b) The rate of tax under this section that shall be imposed within the city; and

(((~~b~~))) (c) The threshold amount for the first fiscal year following the annexation and passage of the ordinance.

(((~~8~~))) (9) The tax shall cease to be distributed to the city for the remainder of the fiscal year once the threshold amount has been reached. No later than March 1st of each year, the city shall provide the department with a certification of the city's true and actual costs to provide municipal services to the annexed area, a new threshold amount for the next fiscal year, and notice of any applicable tax rate changes. Distributions of tax under this section shall begin again on July 1st of the next fiscal year and continue until the new threshold amount has been reached or June 30th, whichever is sooner. Any revenue generated by the tax in excess of the threshold amount shall belong to the state of Washington. Any amount resulting from the threshold amount less the total fiscal year distributions, as of June 30th, shall not be carried forward to the next fiscal year.

(10) The tax shall cease to be distributed to a city imposing the tax under subsection (3)(b) of this section for the remainder of the fiscal year, if the total distributions to the city imposing the tax exceed five million dollars for the fiscal year.

(((~~9~~))) (11) The following definitions apply throughout this section unless the context clearly requires otherwise:

(a) "Annexation area" means an area that has been annexed to a city under chapter 35.13 or 35A.14 RCW. "Annexation area" includes all territory described in the city resolution.

(b) "Commenced annexation" means the initiation of annexation proceedings has taken place under the direct petition method or the election method under chapter 35.13 or 35A.14 RCW.

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

(((~~c~~))) (d) "Municipal services" means those services customarily provided to the public by city government.

(((~~d~~))) (e) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(f) "Potential annexation area" means one or more geographic areas that a city has officially designated for potential future annexation, as part of its comprehensive plan adoption process under the state growth management act, chapter 36.70A RCW.

(((~~e~~))) (g) "Threshold amount" means the maximum amount of tax distributions as determined by the city in accordance with subsection (((~~6~~))) (7) of this section that the department shall distribute to the city generated from the tax imposed under this section in a fiscal year.

Sec. 2. RCW 9.46.295 and 1974 ex.s. c 155 s 6 are each amended to read as follows:

(1) Any license to engage in any of the gambling activities authorized by this chapter as now exists or as hereafter amended, and issued under the authority thereof shall be legal authority to engage in the gambling activities for which issued throughout the

incorporated and unincorporated area of any county, except that a city located therein with respect to that city, or a county with respect to all areas within that county except for such cities, may absolutely prohibit, but may not change the scope of license, any or all of the gambling activities for which the license was issued.

(2) A city or town with a prohibition on house-banked social card game licenses that annexes an area that is within a city, town, or county that permits house-banked social card games may allow a house- banked social card game business that was licensed by the commission as of the effective date of this act to continue operating if the city or town is authorized to impose a tax under RCW 82.14.415 and can demonstrate that the continuation of the house-banked social card game business will reduce the credit against the state sales and use tax as provided in RCW 82.14.415(7). A city or town that allows a house- banked social card game business in an annexed area to continue operating is not required to allow additional house-banked social card game businesses."

Correct the title.

Representative Hunter spoke in favor of the adoption of the amendment.

Representative Orcutt spoke against the adoption of the amendment.

Amendment (880) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Hunter and Maxwell spoke in favor of the passage of the bill.

Representatives Orcutt and Angel spoke against the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5321, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5321, as amended by the House, and the bill passed the House by the following vote: Yeas, 54; Nays, 41; Absent, 0; Excused, 3.

Voting yea: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Priest, Quall, Roberts, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Probst, Roach, Rodne, Rolfes, Ross, Schmick, Shea, Short, Smith, Taylor, Wallace, Walsh and Warnick.

Excused: Representatives Armstrong, Kirby and Morris.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5321, as amended by the House, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 20, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to SUBSTITUTE SENATE BILL NO. 5913 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House insisted on its position in its amendments to SUBSTITUTE SENATE BILL NO. 5913 and asked the Senate to concur therein.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SENATE BILL NO. 5470, by Senators Stevens, Carrell, Parlette, Swecker, McCaslin, Hewitt, Schoesler, King, Holmquist, Pflug, Roach, Delvin and Benton

Providing sales and use tax exemptions for senior residents of qualified low-income senior housing facilities.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Hasegawa and Orcutt spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Senate Bill No. 5470.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5470 and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor,

Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Armstrong, Kirby and Morris.

SENATE BILL NO. 5470, having received the necessary constitutional majority, was declared passed.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6169, by Senate Committee on Ways & Means (originally sponsored by Senator Prentice)

Enhancing tax collection tools for the department of revenue in order to promote fairness and administrative efficiency.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Ericks, Hasegawa and Darneille spoke in favor of the passage of the bill.

Representatives Orcutt and Condotta spoke against the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 6169.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 6169 and the bill passed the House by the following vote: Yeas, 52; Nays, 43; Absent, 0; Excused, 3.

Voting yea: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Flannigan, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Finn, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Seaquist, Shea, Short, Smith, Taylor, Wallace, Walsh and Warnick.

Excused: Representatives Armstrong, Kirby and Morris.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6169, having received the necessary constitutional majority, was declared passed.

There being no objection, the House advanced to the seventh order of business.

POINT OF PERSONAL PRIVILEGE

Representative DeBolt: "Mr. Speaker, as you know, one of our members, Representative Mike Armstrong went to the hospital yesterday. I wanted to update everyone. Mike is out of his procedure. It went well. The doctors did put a stent in and he is now in recovery. Mary Armstrong is at the hospital with him."

MESSAGE FROM THE SENATE

April 16, 2009

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1555 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 18.27 RCW to read as follows:

A contractor must maintain and have available for inspection by the department a list of all direct subcontractors and a copy of their certificate of registration.

NEW SECTION. Sec. 2. A new section is added to chapter 35.21 RCW to read as follows:

A city that issues a business license to a person required to be registered under chapter 18.27 RCW may verify that the person is registered under chapter 18.27 RCW and report violations to the department of labor and industries. The department of licensing shall conduct the verification for cities that participate in the master license system.

NEW SECTION. Sec. 3. A new section is added to chapter 35A.21 RCW to read as follows:

A city that issues a business license to a person required to be registered under chapter 18.27 RCW may verify that the person is registered under chapter 18.27 RCW and report violations to the department of labor and industries. The department of licensing shall conduct the verification for cities that participate in the master license system.

NEW SECTION. Sec. 4. A new section is added to chapter 36.01 RCW to read as follows:

A county that issues a business license to a person required to be registered under chapter 18.27 RCW may verify that the person is registered under chapter 18.27 RCW and report violations to the department of labor and industries.

Sec. 5. RCW 60.28.011 and 2007 c 494 s 504 and 2007 c 218 s 92 are each reenacted and amended to read as follows:

(1) Public improvement contracts shall provide, and public bodies shall reserve, a contract retainage not to exceed five percent of the moneys earned by the contractor as a trust fund for the protection and payment of: (a) The claims of any person arising under the contract; and (b) the state with respect to taxes imposed pursuant to Titles 50, 51, and 82 RCW which may be due from such contractor.

(2) Every person performing labor or furnishing supplies toward the completion of a public improvement contract shall have a lien upon moneys reserved by a public body under the provisions of a public improvement contract. However, the notice of the lien of the claimant shall be given within forty-five days of completion of the contract work, and in the manner provided in RCW 39.08.030.

(3) The contractor at any time may request the contract retainage be reduced to one hundred percent of the value of the work remaining on the project.

(a) After completion of all contract work other than landscaping, the contractor may request that the public body release and pay in full the amounts retained during the performance of the contract, and sixty days thereafter the public body must release and pay in full the

amounts retained (other than continuing retention of five percent of the moneys earned for landscaping) subject to the provisions of chapters 39.12 and 60.28 RCW.

(b) Sixty days after completion of all contract work the public body must release and pay in full the amounts retained during the performance of the contract subject to the provisions of chapters 39.12 and 60.28 RCW.

(4) The moneys reserved by a public body under the provisions of a public improvement contract, at the option of the contractor, shall be:

(a) Retained in a fund by the public body;

(b) Deposited by the public body in an interest bearing account in a bank, mutual savings bank, or savings and loan association. Interest on moneys reserved by a public body under the provision of a public improvement contract shall be paid to the contractor;

(c) Placed in escrow with a bank or trust company by the public body. When the moneys reserved are placed in escrow, the public body shall issue a check representing the sum of the moneys reserved payable to the bank or trust company and the contractor jointly. This check shall be converted into bonds and securities chosen by the contractor and approved by the public body and the bonds and securities shall be held in escrow. Interest on the bonds and securities shall be paid to the contractor as the interest accrues.

(5) The contractor or subcontractor may withhold payment of not more than five percent from the moneys earned by any subcontractor or sub-subcontractor or supplier contracted with by the contractor to provide labor, materials, or equipment to the public project. Whenever the contractor or subcontractor reserves funds earned by a subcontractor or sub-subcontractor or supplier, the contractor or subcontractor shall pay interest to the subcontractor or sub- subcontractor or supplier at a rate equal to that received by the contractor or subcontractor from reserved funds.

(6) A contractor may submit a bond for all or any portion of the contract retainage in a form acceptable to the public body and from a bonding company meeting standards established by the public body. The public body shall accept a bond meeting these requirements unless the public body can demonstrate good cause for refusing to accept it. This bond and any proceeds therefrom are subject to all claims and liens and in the same manner and priority as set forth for retained percentages in this chapter. The public body shall release the bonded portion of the retained funds to the contractor within thirty days of accepting the bond from the contractor. Whenever a public body accepts a bond in lieu of retained funds from a contractor, the contractor shall accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor shall then release the funds retained from the subcontractor or supplier to the subcontractor or supplier within thirty days of accepting the bond from the subcontractor or supplier.

(7) If the public body administering a contract, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the contractor agrees, delete from the contract the remaining work and accept as final the improvement at the stage of completion then attained and make payment in proportion to the amount of the work accomplished and in this case any amounts retained and accumulated under this section shall be held for a period of sixty days following the completion. In the event that the work is terminated before final completion as provided in this section, the public body may thereafter enter into a new contract with the same contractor to perform the remaining work or improvement for an amount equal to or less than the cost of the remaining work as was provided for in the original contract without advertisement or bid. The provisions of this chapter are exclusive and shall supersede all provisions and regulations in conflict herewith.

(8) Whenever the department of transportation has contracted for the construction of two or more ferry vessels, sixty days after completion of all contract work on each ferry vessel, the department must release and pay in full the amounts retained in connection with the construction of the vessel subject to the provisions of RCW 60.28.020 and chapter 39.12 RCW. However, the department of transportation may at its discretion condition the release of funds retained in connection with the completed ferry upon the contractor delivering a good and sufficient bond with two or more sureties, or with a surety company, in the amount of the retained funds to be released to the contractor, conditioned that no taxes shall be certified or claims filed for work on the ferry after a period of sixty days following completion of the ferry; and if taxes are certified or claims filed, recovery may be had on the bond by the department of revenue, the employment security department, the department of labor and industries, and the material suppliers and laborers filing claims.

(9) Except as provided in subsection (1) of this section, reservation by a public body for any purpose from the moneys earned by a contractor by fulfilling its responsibilities under public improvement contracts is prohibited.

(10) Contracts on projects funded in whole or in part by farmers home administration and subject to farmers home administration regulations are not subject to subsections (1) through (9) of this section.

(11) This subsection applies only to a public body that has contracted for the construction of a facility using the general contractor/construction manager procedure, as defined under RCW 39.10.210. If the work performed by a subcontractor on the project has been completed within the first half of the time provided in the general contractor/construction manager contract for completing the work, the public body may accept the completion of the subcontract. The public body must give public notice of this acceptance. After a forty-five day period for giving notice of liens, and compliance with the retainage release procedures in RCW 60.28.021, the public body may release that portion of the retained funds associated with the subcontract. Claims against the retained funds after the forty-five day period are not valid.

(12) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Contract retainage" means an amount reserved by a public body from the moneys earned by a person under a public improvement contract.

(b) "Person" means a person or persons, mechanic, subcontractor, or materialperson who performs labor or provides materials for a public improvement contract, and any other person who supplies the person with provisions or supplies for the carrying on of a public improvement contract.

(c) "Public body" means the state, or a county, city, town, district, board, or other public body.

(d) "Public improvement contract" means a contract for public improvements or work, other than for professional services, or a work order as defined in RCW 39.10.210.

Sec. 6. RCW 60.28.021 and 2007 c 218 s 94 are each amended to read as follows:

After the expiration of the forty-five day period for giving notice of lien provided in RCW 60.28.011(2), and after receipt of the ((~~department of revenue's~~)) certificates of the department of revenue, the employment security department, and the department of labor and

industries, and the public body is satisfied that the taxes certified as due or to become due by the department of revenue, the employment security department, and the department of labor and industries are discharged, and the claims of material suppliers and laborers who have filed their claims, together with a sum sufficient to defray the cost of foreclosing the liens of such claims, and to pay attorneys' fees, have been paid, the public body may withhold from the remaining retained amounts for claims the public body may have against the contractor and shall pay the balance, if any, to the contractor the fund retained by it or release to the contractor the securities and bonds held in escrow.

If such taxes have not been discharged or the claims, expenses, and fees have not been paid, the public body shall either retain in its fund, or in an interest bearing account, or retain in escrow, at the option of the contractor, an amount equal to such unpaid taxes and unpaid claims together with a sum sufficient to defray the costs and attorney fees incurred in foreclosing the lien of such claims, and shall pay, or release from escrow, the remainder to the contractor.

Sec. 7. RCW 60.28.040 and 1985 c 80 s 1 are each amended to read as follows:

(1) Subject to subsection (5) of this section, the amount of all taxes, increases, and penalties due or to become due under Title 82 RCW, from a contractor or the contractor's successors or assignees with respect to a public improvement contract wherein the contract price is twenty thousand dollars or more, shall be a lien prior to all other liens upon the amount of the retained percentage withheld by the disbursing officer under such contract((~~, except that~~)).

(2) Subject to subsection (5) of this section, after payment of all taxes, increases, and penalties due or to become due under Title 82 RCW, from a contractor or the contractor's successors or assignees with respect to a public improvement contract wherein the contract price is twenty thousand dollars or more, the amount of all other taxes, increases, and penalties under Title 82 RCW, due and owing from the contractor, shall be a lien prior to all other liens upon the amount of the retained percentage withheld by the disbursing officer under such contract.

(3) Subject to subsection (5) of this section, after payment of all taxes, increases, and penalties due or to become due under Title 82 RCW, the amount of all taxes, increases, and penalties due or to become due under Titles 50 and 51 RCW from the contractor or the contractor's successors or assignees with respect to a public improvement contract wherein the contract price is twenty thousand dollars or more shall be a lien prior to all other liens upon the amount of the retained percentage withheld by the disbursing officer under such contract.

(4) Subject to subsection (5) of this section, the amount of all other taxes, increases, and penalties due and owing from the contractor shall be a lien upon the balance of such retained percentage remaining in the possession of the disbursing officer after all other statutory lien claims have been paid.

(5) The employees of a contractor or the contractor's successors or assignees who have not been paid the prevailing wage under such a public improvement contract shall have a first priority lien against the bond or retainage prior to all other liens. ((~~The amount of all other taxes, increases and penalties due and owing from the contractor shall be a lien upon the balance of such retained percentage remaining in the possession of the disbursing officer after all other statutory lien claims have been paid.~~))

Sec. 8. RCW 60.28.051 and 2007 c 210 s 2 are each amended to read as follows:

Upon completion of a contract, the state, county, or other municipal officer charged with the duty of disbursing or authorizing disbursement or payment of such contracts shall forthwith notify the department of revenue, the employment security department, and the department of labor and industries of the completion of contracts over thirty-five thousand dollars. Such officer shall not make any payment from the retained percentage fund or release any retained percentage escrow account to any person, until he or she has received from the department of revenue ((~~a~~)), the employment security department, and the department of labor and industries certificates that all taxes, increases, and penalties due from the contractor, and all taxes due and to become due with respect to such contract have been paid in full or that they are, in ((~~the~~)) each department's opinion, readily collectible without recourse to the state's lien on the retained percentage.

Sec. 9. RCW 60.28.060 and 1967 ex.s. c 26 s 25 are each amended to read as follows:

If within thirty days after receipt of notice by the department of revenue, the employment security department, and the department of labor and industries of the completion of the contract, the amount of all taxes, increases and penalties due from the contractor or any of his successors or assignees or to become due with respect to such contract have not been paid, the department of revenue, the employment security department, and the department of labor and industries may certify to the disbursing officer the amount of all taxes, increases and penalties due from the contractor, together with the amount of all taxes due and to become due with respect to the contract and may request payment thereof ((~~to the department of revenue~~)) in accordance with the priority provided by this chapter. The disbursing officer shall within ten days after receipt of such certificate and request pay to the department of revenue, the employment security department, and the department of labor and industries the amount of all taxes, increases and penalties certified to be due or to become due ((~~with respect to the particular contract, and, after payment of~~)) and all claims which by statute are a lien upon the retained percentage withheld by the disbursing officer((~~, shall pay to the department of revenue the balance, if any, or so much thereof as shall be necessary to satisfy the claim of the department of revenue for the balance of all taxes, increases or penalties shown to be due by the certificate of the department of revenue~~)) in accordance with the priority provided by this chapter. If the contractor owes no taxes imposed pursuant to Titles 50, 51, and 82 RCW, the department of revenue, the employment security department, and the department of labor and industries shall so certify to the disbursing officer.

NEW SECTION. Sec. 10. A new section is added to chapter 51.04 RCW to read as follows:

The department shall conduct education and outreach to employers on workers' compensation requirements and premium responsibilities, including independent contractor issues. The department shall work with new employers on an individual basis and also establish mass education campaigns.

Sec. 11. RCW 50.12.070 and 2008 c 120 s 7 are each amended to read as follows:

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

(b) An employer who contracts with another person or entity for work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a record of the unified business identifier account number

for and compensation paid to the person or entity performing the work. In addition to the penalty in subsection (3) of this section, failure to obtain or maintain the record is subject to RCW 39.06.010 ((~~and to a penalty determined by the commissioner, but not to exceed two hundred fifty dollars, to be collected as provided in RCW 50.24.120~~)).

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

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

(c) If the employing unit fails or has failed to report the number of hours in a reporting period for which a worker worked, such number will be computed by the commissioner and given the same force and effect as if it had been reported by the employing unit. In computing the number of such hours worked, the total wages for the reporting period, as reported by the employing unit, shall be divided by the dollar amount of the state's minimum wage in effect for such reporting period and the quotient, disregarding any remainder, shall be credited to the worker: PROVIDED, That although the computation so made will not be subject to appeal by the employing unit, monetary entitlement may be redetermined upon request if the department is provided with credible evidence of the actual hours worked. Benefits paid using computed hours are not considered an overpayment and are not subject to collections when the correction of computed hours results in an invalid or reduced claim; however:

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

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

(3) Any employer who fails to keep and preserve records required by this section shall be subject to a penalty determined by the commissioner but not to exceed two hundred fifty dollars or two hundred percent of the quarterly tax for each offense, whichever is greater.

Sec. 12. 2008 c 120 s 10 (uncodified) is amended to read as follows:

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

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

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

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

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

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

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

(v) One member representing cities, appointed by an association of cities;

(vi) One member representing counties, appointed by an association of counties.

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

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

(4) In conducting its study in 2009, the task force may consider:

(a) Issues previously discussed by the joint legislative task force on the underground economy in the construction industry and whether these issues need to be addressed in nonconstruction industries;

(b) The role of local governments in monitoring the underground economy;

(c) The need to establish additional benchmarks and measures for purposes of section 13 of this act;

(d) Such other items the task force deems necessary.

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

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

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

(((~~(5)~~))) (6) The task force shall report its ((~~preliminary~~)) findings and recommendations to the legislature by ((~~January 1, 2008, and submit a final report to the legislature by~~)) December ((~~31, 2008~~)) 1, 2009.

(((~~(6)~~))) (7) This section expires ((~~July 1,~~)) December 15, 2009.

NEW SECTION. Sec. 13. The department of labor and industries, the employment security department, and the department of revenue shall coordinate and report to the appropriate committees of the legislature by December 1st of each year on the effectiveness of efforts implemented since July 1, 2008, to address the underground economy. The agencies shall use benchmarks and measures established by the institute for public policy and other measures it determines appropriate.

NEW SECTION. Sec. 14. Section 11 of this act takes effect October 1, 2009."

On page 1, line 2 of the title, after "industry;" strike the remainder of the title and insert "amending RCW 60.28.021, 60.28.040, 60.28.051, 60.28.060, and 50.12.070; amending 2008 c 120 s 10 (uncodified); reenacting and amending RCW 60.28.011; adding a new section to chapter 18.27 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 36.01 RCW; adding a new section to chapter 51.04 RCW; creating a new section; prescribing penalties; providing an effective date; and providing an expiration date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House advanced to the seventh order of business.

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1555 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Conway and Condotta spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1555, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1555, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Representatives Alexander, Angel, Appleton, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representative Anderson.

Excused: Representatives Armstrong and Kirby.

SUBSTITUTE HOUSE BILL NO. 1555, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 16, 2009

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 2299 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.57.010 and 2007 c 486 s 1 are each amended to read as follows:

(1)(a) The legislative authority of any town or city located in a county with a population of less than one million may create a public facilities district.

(b) The legislative authorities of any contiguous group of towns or cities located in a county or counties each with a population of less than one million may enter an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(c) The legislative authority of any town or city, or any contiguous group of towns or cities, located in a county with a population of less than one million and the legislative authority of a contiguous county, or the legislative authority of the county or counties in which the towns or cities are located, may enter into an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(d) The legislative authority of a city located in a county with a population greater than one million may create a public facilities district, when the city has a total population of less than one hundred fifteen thousand but greater than eighty thousand and commences construction of a regional center prior to July 1, 2008.

(e) At least two legislative authorities, one or more of which previously created a public facilities district or districts under (b) or (c) of this subsection, may create an additional public facilities district notwithstanding the fact that one or more of those towns or cities, with or without a county or counties, previously have created one or more public facilities districts within the geographic boundaries of the additional public facilities district. Those existing districts may continue their full corporate existence and activities notwithstanding the creation and existence of the additional district within all or part of the same geographic area. Additional public facilities districts formed under this subsection may be comprised of a maximum of three contiguous towns or cities separately or in combination with a maximum of two contiguous counties.

(2)(a) A public facilities district shall be coextensive with the boundaries of the city or town or contiguous group of cities or towns that created the district.

(b) A public facilities district created by an agreement between a town or city, or a contiguous group of towns or cities, and a contiguous county or the county in which they are located, shall be coextensive with the boundaries of the towns or cities, and the boundaries of the county or counties as to the unincorporated areas of the county or counties. The boundaries shall not include incorporated towns or cities that are not parties to the agreement for the creation and joint operation of the district.

(3)(a) A public facilities district created by a single city or town shall be governed by a board of directors consisting of five members selected as follows: (i) Two members appointed by the legislative authority of the city or town; and (ii) three members appointed by legislative authority based on recommendations from local organizations. The members appointed under (a)(i) of this subsection, shall not be members of the legislative authority of the city or town. The members appointed under (a)(ii) of this subsection, shall be based on recommendations received from local organizations that may include, but are not limited to the local chamber of commerce, local economic development council, and local labor council. The members shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(b) A public facilities district created by a contiguous group of cities and towns shall be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities and towns; and (ii) four members appointed by the legislative ((~~authority~~)) authorities of the cities and towns based on recommendations from local organizations. The members appointed under (b)(i) of this subsection shall not be members of the legislative authorities of the cities and towns. The members appointed under (b)(ii) of this subsection, shall be based on recommendations received from local organizations that include, but are not limited to the local chamber of commerce, local economic development council, local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors shall be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four- year terms. Of the initial members, one must be appointed for a one- year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(c) A public facilities district created by a town or city, or a contiguous group of towns or cities, and a contiguous county or the county or counties in which they are located, shall be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities, towns, and county; and (ii) four members appointed by the legislative ((~~authority~~)) authorities of the cities, towns, and county based on recommendations from local organizations. The members appointed under (c)(i) of this subsection shall not be members of the legislative authorities of the cities, towns, or county. The members appointed under (c)(ii) of this subsection shall be based on recommendations received from local organizations that include, but are not limited to, the local chamber of commerce, the local economic development council, the local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors shall be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four- year terms. Of the initial members, one must be appointed for a one- year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(d)(i) A public facilities district created under subsection (1)(e) of this section may provide, in the agreement providing for its creation and operation, that the district must be governed by a board of directors appointed under (b) or (c) of this subsection, or by a board of directors of not more than nine members who are also members of the legislative authorities that created the public facilities district or of the governing boards of the public facilities district or districts, or both, previously created by those legislative authorities.

(ii) A board of directors formed under this subsection must have an equal number of members representing each city, town, or county participating in the public facilities district. If a public facilities district is created by an even number of legislative authorities, the members representing or appointed by those legislative authorities shall appoint an additional board member. For a board formed under this subsection to approve a proposition, the proposition must be approved by a majority of the members representing or appointed by each legislative authority participating in the public facilities district.

(4) A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(5) A public facilities district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(6) A public facilities district may acquire and transfer real and personal property by lease, sublease, purchase, or sale. No direct or collateral attack on any public facilities district purported to be authorized or created in conformance with this chapter may be commenced more than thirty days after creation by the city and/or county legislative authority.

Sec. 2. RCW 35.57.020 and 2002 c 363 s 2 and 2002 c 218 s 25 are each reenacted and amended to read as follows:

(1)(a) Except for a public facilities district created under RCW 35.57.010(1)(e), a public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more regional centers. For purposes of this chapter, "regional center" means a convention, conference, or special events center, or any combination of facilities, and related parking facilities, serving a regional population constructed, improved, or rehabilitated after July 25, 1999, at a cost of at least ten million dollars, including debt service. "Regional center" also includes an existing convention, conference, or special events center, and related parking facilities, serving a regional population, that is improved or rehabilitated after July 25, 1999, where the costs of improvement or rehabilitation are at least ten million dollars, including debt service. A "special events center" is a facility, available to the public, used for community events, sporting events, trade shows, and artistic, musical, theatrical, or other cultural exhibitions, presentations, or performances. A regional center is conclusively presumed to serve a regional population if state and local government investment in the construction, improvement, or rehabilitation of the regional center is equal to or greater than ten million dollars.

(b) A public facilities district created under RCW 35.57.010(1)(e) is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more recreational facilities other than a ski area.

(2) A public facilities district may enter into contracts with any city or town for the purpose of exercising any powers of a community renewal agency under chapter 35.81 RCW.

(3) A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations for the purpose of a regional center.

(4) A public facilities district may impose charges, fees, and taxes authorized in RCW 35.57.040, and use revenues derived therefrom for the purpose of paying principal and interest payments on bonds issued by the public facilities district to construct a regional center.

(5) Notwithstanding the establishment of a career, civil, or merit service system, a public facilities district may contract with a public or private entity for the operation or management of its public facilities.

(6) A public facilities district is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center.

(7) A city or town in conjunction with any special agency, authority, or other district established by a county or any other governmental agency is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center funded in whole or in part by a public facilities district.

Sec. 3. RCW 82.14.048 and 2008 c 86 s 103 are each amended to read as follows:

(1) The governing board of a public facilities district under chapter 36.100 or 35.57 RCW may submit an authorizing proposition to the voters of the district, and if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter.

(2) The tax authorized in this section shall be in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the public facilities district. The rate of tax shall not exceed two-tenths of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax. A public facilities district formed under RCW 35.57.010(1)(e) may not impose the tax authorized under this subsection at a rate that exceeds two-tenths of one percent minus the rate of the highest tax authorized by this subsection that is imposed by any other public facilities district within its boundaries. If a public facilities district formed under RCW 35.57.010(1)(e) has imposed a tax under this subsection and issued or incurred obligations pledging that tax, so long as those obligations are outstanding no other public facilities district within its boundaries may thereafter impose a tax under this subsection at a rate that would reduce the rate of the tax that was pledged to the repayment of those obligations. A public facilities district that imposes a tax under this subsection is responsible for the payment of any costs incurred for the purpose of administering the provisions of this subsection, RCW 35.57.010(1)(e), and 35.57.020(1)(b), including any administrative costs associated with the imposition of a tax under this subsection incurred by either the department of revenue or local government, or both.

(3) Moneys received from any tax imposed under the authority of this section shall be used for the purpose of providing funds for the costs associated with the financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, and reequipping of its public facilities.

Sec. 4. RCW 36.100.180 and 1995 c 396 s 15 are each amended to read as follows:

(1) The public facilities district may secure services by means of an agreement with a service provider. The public facilities district shall publish notice, establish criteria, receive and evaluate proposals, and negotiate with respondents under requirements set forth by district resolution.

(2) For personal service contracts of one hundred fifty thousand dollars or greater not otherwise governed by chapter 39.80 RCW, contracts for architectural and engineering services, a competitive solicitation process is required. The district shall establish the process by resolution, which must at a minimum include the following:

(a) Notice. A notice inviting statements of either qualifications or proposals, or both, from interested parties must be published in a newspaper of general circulation throughout the county in which the district is located at least ten days before the date for submitting the statements of qualifications or proposals.

(b) Description of services required. The request for statements of either qualifications or proposals, or both published or provided to interested parties must describe the services required and list the types of information and data required of each proposal. It may also describe the evaluation criteria and state the relative importance of the criteria if then available.

(c) Review and evaluation. The district shall establish a process to review and evaluate statements of either qualifications or proposals, or both. That process may include a selection board identified by the district or some other panel of evaluators. If appropriate, the reviewers may hear oral presentations by proposers.

(d) Selection. The evaluators shall select and rank the most qualified proposers. In selecting and ranking such proposers, the selection board shall consider the evaluation criteria established by the district and may consider such other information as may be secured during the evaluation process related to a proposer's qualifications and experience.

(e) Negotiations. The district shall enter into contract negotiations with the top-ranked proposer or proposers identified in the selection process. Negotiations may be conducted concurrently or sequentially as may be allowed by law.

(f) Approval. When negotiations are complete, the proposed contract will be presented to the district's governing body at its next regularly scheduled meeting for approval or ratification.

(3) Exceptions. The requirements of this section need not be met in the following circumstances:

(a) Emergency. When the contracting authority makes a finding that an emergency requires the immediate execution of the work involved. As used in this subsection, "emergency" has the same meaning as provided in RCW 39.29.006;

(b) Contract amendment. Amendments to existing service contracts are exempt from these requirements; and

(c) Sole source. In the event that the services being sought can only be obtained from a single source, then the district shall make a formal written finding stating the factual basis for the exception and the solicitation requirements of this section do not apply. As used in this subsection, "sole source" has the same meaning as provided in RCW 39.29.006.

(4) Prospective application. Nothing in this section affects the validity or effect of any district contract executed prior to the effective date of this act."

On page 1, line 2 of the title, after "districts;" strike the remainder of the title and insert "amending RCW 35.57.010, 82.14.048, and 36.100.180; and reenacting and amending RCW 35.57.020."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House advanced to the seventh order of business.

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 2299 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Klippert and Hunter spoke in favor of the passage of the bill.

MOTION

On motion of Representative Hinkle, Representative Kristiansen was excused

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 2299, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 2299, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 93; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Klippert, Kretz, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Simpson and Van De Wege.

Excused: Representatives Armstrong, Kirby and Kristiansen.

ENGROSSED HOUSE BILL NO. 2299, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 19, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to SUBSTITUTE SENATE BILL NO. 5684 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment to SUBSTITUTE SENATE BILL NO. 5684, and advanced the bill to final passage without the House amendment.

FINAL PASSAGE OF SENATE BILL WITHOUT HOUSE AMENDMENT

Representatives Clibborn and Roach spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5684 without the House amendment.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5684, without the House amendment, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Klippert, Kretz, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Armstrong, Kirby and Kristiansen.

SUBSTITUTE SENATE BILL NO. 5684, without the House amendment, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 21, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 5811 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 5811. Under suspension of the rules, the bill was returned to second reading for the purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5811, by Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, Shin and Roach)

Concerning the placement of foster children. Revised for 1st Substitute: Concerning foster child placements.

With the consent of the House, amendment (882) was withdrawn.

Representative Kagi moved the adoption of amendment (886):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.34.065 and 2008 c 267 s 2 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) The department of social and health services shall submit a recommendation to the court as to the further need for shelter care in all cases in which it is the petitioner. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative or other suitable person described in RCW 13.34.130(1)(b) and shall determine what efforts have been made toward such a placement;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home;

(e) Is the placement proposed by the agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in 25 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare act apply, and whether there is compliance with the Indian child welfare act, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate

the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The court must also determine whether placement with the relative or other suitable person is in the child's best interests. The relative or other suitable person must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative or other suitable person, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative or other suitable person pursuant to RCW 13.34.060(1).

(d) If a relative or other suitable person is not available, the court shall order continued shelter care ((~~or order placement with another suitable person, and the court~~)) and shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other suitable person approved by the court pursuant to this section, shall be contingent upon cooperation with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other suitable person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative or other suitable person under (b) of this subsection ((~~or with another suitable person under (d) of this subsection~~)).

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

Sec. 3. RCW 13.34.130 and 2007 c 413 s 6 and 2007 c 412 s 2 are each reenacted and amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose those services, including housing assistance, that least interfere with family autonomy and are adequate to protect the child.

(b) Order the child to be removed from his or her home and into the custody, control, and care of a relative or other suitable person or the department or a licensed child placing agency for supervision of the child's placement. The department or agency supervising the child's placement has the authority to place the child, subject to review and approval by the court (i) with a relative as defined in RCW 74.15.020(2)(a), (ii) ((~~in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW, or (iii)~~)) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child, or (iii) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW. Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement

of the child in accordance with RCW 13.34.260. The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a) when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, ((~~such~~)) the child shall be placed with a person who is: (A) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; or (B) a suitable person as described in this subsection (1)(b); and (((~~(B)~~))) (C) willing, appropriate, and available to care for the child. The court shall consider the child's existing relationships and attachments when determining placement.

(2) Placement of the child with a relative ((~~under this subsection~~)) or other suitable person as described in subsection (1)(b) of this section shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

(3) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

(4) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

(5) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

(6) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative or other suitable person, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative or other person appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives or other suitable persons, pursuant to this section, shall be contingent upon cooperation by the relative or other suitable person with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent- child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's or other suitable person's home, subject to review by the court.

Sec. 4. RCW 13.34.138 and 2007 c 413 s 8 and 2007 c 410 s 1 are each reenacted and amended to read as follows:

(1) ((~~Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW,~~)) The status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first. The purpose of the hearing shall be to review the progress of the parties and determine whether court supervision should continue.

(a) The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The requirements for the initial review hearing, including the in-court review requirement, shall be accomplished within existing resources.

(b) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145 (1)(a) or 13.34.134.

(2)(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the department must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the dependency. The department or supervising agency may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in

or follow through with the recommended services, the department or supervising agency must promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the department or supervising agency of all persons who reside in the home or who may act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the dependency proceeding or the department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is a ward of the court. This subsection does not grant party status to any individual not already a party to the dependency proceeding, create an entitlement to services or a duty on the part of the department or supervising agency to provide services, or create judicial authority to order the provision of services to any person other than for the express purposes of this section or RCW 13.34.025 or if the services are unavailable or unsuitable or the person is not eligible for such services.

(c) If the child is not returned home, the court shall establish in writing:

(i) Whether the agency is making reasonable efforts to provide services to the family and eliminate the need for placement of the child. If additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents, the court shall order that reasonable services be offered specifying such services;

(ii) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(iii) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(iv) Whether the services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances;

(v) Whether there is a continuing need for placement;

(vi) Whether the child is in an appropriate placement which adequately meets all physical, emotional, and educational needs;

(vii) Whether preference has been given to placement with the child's relatives <u>if such placement is in the child's best interests</u>;

(viii) Whether both in-state and, where appropriate, out-of-state placements have been considered;

(ix) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(x) Whether terms of visitation need to be modified;

(xi) Whether the court-approved long-term permanent plan for the child remains the best plan for the child;

(xii) Whether any additional court orders need to be made to move the case toward permanency; and

(xiii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

(3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

(i) The compliance of the parents with court orders related to the care and supervision of the child, including compliance with an agency case plan; and

(ii) The continued participation of the parents, if applicable, in available substance abuse or mental health treatment if substance abuse or mental illness was a contributing factor to the removal of the child.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the agency case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect; or

(iii) The failure of the parents to successfully and substantially complete available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect.

(c) In a pending dependency case in which the court orders that a dependent child may be returned home and that child is later removed from the home, the court shall hold a review hearing within thirty days from the date of removal to determine whether the permanency plan should be changed, a termination petition should be filed, or other action is warranted. The best interests of the child shall be the court's primary consideration in the review hearing.

(4) The court's ability to order housing assistance under RCW 13.34.130 and this section is: (a) Limited to cases in which homelessness or the lack of adequate and safe housing is the primary reason for an out-of-home placement; and (b) subject to the availability of funds appropriated for this specific purpose.

(5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(3).

Sec. 5. RCW 13.34.145 and 2008 c 152 s 3 are each amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to agency staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the agency to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

At this hearing, the court shall order the department to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child. For purposes of this section, "good cause exception" includes but is not limited to the following: The child is being cared for by a relative; the department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home; or the department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests.

(c)(i) If the permanency plan identifies independent living as a goal, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care.

(ii) The permanency plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living.

(iii) The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(d) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall ((~~also~~)):

(i) Enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(5), and 13.34.096; and

(ii) If the department or supervising agency is recommending a placement other than the child's current placement with a foster parent, relative, or other suitable person, enter a finding as to the reasons for the recommendation for a change in placement.

(4) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(5) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(6) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(7) If the court orders the child returned home, casework supervision shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(8) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(9) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (8) of this section are met.

(10) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for

termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

Sec. 6. RCW 13.34.260 and 2003 c 226 s 2 are each amended to read as follows:

(1) In an attempt to minimize the inherent intrusion in the lives of families involved in the foster care system and to maintain parental authority where appropriate, the department, absent good cause, shall follow the wishes of the natural parent regarding the placement of the child with a relative or other suitable person pursuant to RCW 13.34.130. Preferences such as family constellation, sibling relationships, ethnicity, and religion shall be considered when matching children to foster homes. Parental authority is appropriate in areas that are not connected with the abuse or neglect that resulted in the dependency and shall be integrated through the foster care team.

(2) When a child is placed in out-of-home care, relatives, other suitable persons, and foster parents are encouraged to:

(a) Provide consultation to the foster care team based upon their experience with the child placed in their care;

(b) Assist the birth parents by helping them understand their child's needs and correlating appropriate parenting responses;

(c) Participate in educational activities, and enter into community-building activities with birth families and other foster families;

(d) Transport children to family time visits with birth families and assist children and their families in maximizing the purposefulness of family time.

(3) For purposes of this section, "foster care team" means the relative, other suitable person, or foster parent currently providing care, the currently assigned social worker, and the parent or parents; and "birth family" means the persons described in RCW 74.15.020(2)(a).

NEW SECTION. Sec. 7. A new section is added to chapter 13.34 RCW to read as follows:

(1) The administrative office of the courts shall develop standard court forms and format rules for mandatory use by parties in dependency matters commenced under this chapter or chapter 26.44 RCW. Forms shall be developed not later than November 1, 2009, and the mandatory use requirement shall be effective January 1, 2010. The administrative office of the courts has continuing responsibility to develop and revise mandatory forms and format rules as appropriate.

(2) According to rules established by the administrative office of the courts, a party may delete unnecessary portions of the forms and may supplement the mandatory forms with additional material.

(3) Failure by a party to use the mandatory forms or follow the format rules shall not be a reason to dismiss a case, refuse a filing, or strike a pleading. The court may, however, require the party to submit a corrected pleading and may impose terms payable to the opposing party or payable to the court, or both.

(4) The administrative office of the courts shall distribute a master copy of the mandatory forms to all county court clerks. Upon request, the administrative office of the courts and county clerks must distribute the forms to the public and may charge for the cost of production and distribution of the forms. Private vendors also may distribute the forms. Distribution of forms may be in printed or electronic form.

Sec. 8. RCW 74.13.031 and 2008 c 267 s 6 are each amended to read as follows:

The department shall have the duty to provide child welfare services and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) Monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. The policy for monitoring placements under this section shall require that children in out-of- home care and in-home dependencies and their caregivers receive a private and individual face-to-face visit each month.

(a) The department shall conduct the monthly visits with children and caregivers required under this section unless the child's placement is being supervised under a contract between the department and a private agency accredited by a national child welfare accrediting entity, in which case the private agency shall, within existing resources, conduct the monthly visits with the child and with the child's caregiver according to the standards described in this subsection and shall provide the department with a written report of the visits within fifteen days of completing the visits.

(b) In cases where the monthly visits required under this subsection are being conducted by a private agency, the department shall conduct a face-to-face health and safety visit with the child at least once every ninety days.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10)(a) Have authority to provide continued foster care or group care as needed to participate in or complete a high school or vocational school program.

(b)(i) Beginning in 2006, the department has the authority to allow up to fifty youth reaching age eighteen to continue in foster care or group care as needed to participate in or complete a posthigh school academic or vocational program, and to receive necessary support and transition services.

(ii) In 2007 and 2008, the department has the authority to allow up to fifty additional youth per year reaching age eighteen to remain in foster care or group care as provided in (b)(i) of this subsection.

(iii) A youth who remains eligible for such placement and services pursuant to department rules may continue in foster care or group care until the youth reaches his or her twenty-first birthday. Eligibility requirements shall include active enrollment in a posthigh school academic or vocational program and maintenance of a 2.0 grade point average.

(11) Refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(12) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(13) Within amounts appropriated for this specific purpose, provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(14) Have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(15) Consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(16)(a) Within current funding levels, place on the public web site maintained by the department a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference for an out-of-home placement that allows the child to remain in the same school or school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community- based organization and must be updated as needed.

NEW SECTION. Sec. 9. A new section is added to chapter 74.13 RCW to read as follows:

Once a dependency is established under chapter 13.34 RCW, the social worker assigned to the case shall provide the dependent child age twelve years and older with a document containing the information described in RCW 74.13.031(16). The social worker shall explain the contents of the document to the child and direct the child to the department's web site for further information. The social worker shall document, in the electronic data system, that this requirement was met.

Sec. 10. RCW 74.13.109 and 1990 c 285 s 7 are each amended to read as follows:

(1) The secretary shall issue rules and regulations to assist in the administration of the program of adoption support authorized by RCW 26.33.320 and 74.13.100 through 74.13.145.

(2) Disbursements from the appropriations available from the general fund shall be made pursuant to such rules and regulations and pursuant to agreements conforming thereto to be made by the secretary with parents for the purpose of supporting the adoption of children in, or likely to be placed in, foster homes or child caring institutions who are found by the secretary to be difficult to place in

adoption because of physical or other reasons; including, but not limited to, physical or mental handicap, emotional disturbance, ethnic background, language, race, color, age, or sibling grouping.

(3) Such agreements shall meet the following criteria:

(((~~(1)~~))) (a) The child whose adoption is to be supported pursuant to such agreement shall be or have been a child hard to place in adoption.

(((~~(2)~~))) (b) Such agreement must relate to a child who was or is residing in a foster home or child-caring institution or a child who, in the judgment of the secretary, is both eligible for, and likely to be placed in, either a foster home or a child-caring institution.

(((~~(3)~~))) (c) Such agreement shall provide that adoption support shall not continue beyond the time that the adopted child reaches eighteen years of age, becomes emancipated, dies, or otherwise ceases to need support, provided that if the secretary shall find that continuing dependency of such child after such child reaches eighteen years of age warrants the continuation of support pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145 the secretary may do so, subject to all the provisions of RCW 26.33.320 and 74.13.100 through 74.13.145, including annual review of the amount of such support.

(((~~(4)~~))) (d) Any prospective parent who is to be a party to such agreement shall be a person who has the character, judgment, sense of responsibility, and disposition which make him or her suitable as an adoptive parent of such child.

(4) At least six months before an adoption is finalized under chapter 26.33 RCW and RCW 74.13.100 through 74.13.145, the department must provide to the prospective adoptive parent, in writing, information describing the limits of the adoption support program including the following information:

(a) The limits on monthly cash payments to adoptive families;

(b) The limits on the availability of children's mental health services and the funds with which to pay for these services;

(c) The process for accessing mental health services for children receiving adoption support services;

(d) The limits on the one-time cash payments to adoptive families for expenses related to their adopted children; and

(e) That payment for residential or group care is not available for adopted children under the adoption support program.

Sec. 11. RCW 74.13.250 and 1990 c 284 s 2 are each amended to read as follows:

(1) Preservice training is recognized as a valuable tool to reduce placement disruptions, the length of time children are in care, and foster parent turnover rates. Preservice training also assists potential foster parents in making their final decisions about foster parenting and assists social service agencies in obtaining information about whether to approve potential foster parents.

(2) Foster parent preservice training shall include information about the potential impact of placement on foster children; social service agency administrative processes; the requirements, responsibilities, expectations, and skills needed to be a foster parent; attachment, separation, and loss issues faced by birth parents, foster children, and foster parents; child management and discipline; birth family relationships; information on the limits of the adoption support program as provided in RCW 74.13.109(4); and helping children leave foster care. Preservice training shall assist applicants in making informed decisions about whether they want to be foster parents. Preservice training shall be designed to enable the agency to assess the ability, readiness, and appropriateness of families to be foster parents. As a decision tool, effective preservice training provides potential foster parents with enough information to make an appropriate decision, affords potential foster parents an opportunity to discuss their decision with others and consider its implications for their family, clarifies foster family expectations, presents a realistic picture of what foster parenting involves, and allows potential foster parents to consider and explore the different types of children they might serve.

(3) Preservice training shall be completed prior to the issuance of a foster care license, except that the department may, on a case by case basis, issue a written waiver that allows the foster parent to complete the training after licensure, so long as the training is completed within ninety days following licensure.

Sec. 12. RCW 74.13.333 and 2004 c 181 s 1 are each amended to read as follows:

(1) A foster parent who believes that a department employee has retaliated against the foster parent or in any other manner discriminated against the foster parent because:

(((~~(1)~~))) (a) The foster parent made a complaint with the office of the family and children's ombudsman, the attorney general, law enforcement agencies, or the department, provided information, or otherwise cooperated with the investigation of such a complaint;

(((~~(2)~~))) (b) The foster parent has caused to be instituted any proceedings under or related to Title 13 RCW;

(((~~(3)~~))) (c) The foster parent has testified or is about to testify in any proceedings under or related to Title 13 RCW;

(((~~(4)~~))) (d) The foster parent has advocated for services on behalf of the foster child;

(((~~(5)~~))) (e) The foster parent has sought to adopt a foster child in the foster parent's care; or

(((~~(6)~~))) (f) The foster parent has discussed or consulted with anyone concerning the foster parent's rights under this chapter or chapter 74.15 or 13.34 RCW, may file a complaint with the office of the family and children's ombudsman.

(2) The ombudsman may investigate the allegations of retaliation. The ombudsman shall have access to all relevant information and resources held by or within the department by which to conduct the investigation. Upon the conclusion of its investigation, the ombudsman shall provide its findings in written form to the department.

(3) The department shall notify the office of the family and children's ombudsman in writing, within thirty days of receiving the ombudsman's findings, of any personnel action taken or to be taken with regard to the department employee.

(4) The office of the family and children's ombudsman shall also include its recommendations regarding complaints filed under this section in its annual report pursuant to RCW 43.06A.030. The office of the family and children's ombudsman shall identify trends which may indicate a need to improve relations between the department and foster parents."

Correct the title.

Representative Kagi spoke in favor of the adoption of the amendment.

Amendment (886) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Kagi and Haler spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5811, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5811, as amended by the House, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Klippert, Kretz, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Armstrong, Kirby and Kristiansen.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5811, as amended by the House, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 21, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 5889, and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 5889. Under suspension of the rules, the bill was returned to second reading for the purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5889, by Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Hobbs, McAuliffe, McDermott and Oemig)

Providing flexibility in the education system.

With the consent of the House, amendments (878) and (865) were withdrawn.

Representative Quall moved the adoption of amendment (885):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.165.025 and 2004 c 20 s 3 are each amended to read as follows:

((~~By July 1st of each year,~~)) (1) A participating school district shall submit the district's plan for using learning assistance funds to the office of the superintendent of public instruction for approval, to the extent required under subsection (2) of this section. ((~~For the 2004-05 school year, school districts must identify the program activities to be implemented from RCW 28A.165.035 and are encouraged to implement the elements in subsections (1) through (8) of this section. Beginning in the 2005-06 school year,~~)) The program plan must identify the program activities to be implemented from RCW 28A.165.035 and implement all of the elements in ((~~subsections (1)~~)) (a) through (((~~(8)~~))) (h) of this ((~~section~~)) subsection. The school district plan shall include the following:

(((~~(1)~~))) (a) District and school-level data on reading, writing, and mathematics achievement as reported pursuant to chapter 28A.655 RCW and relevant federal law;

(((~~(2)~~))) (b) Processes used for identifying the underachieving students to be served by the program, including the identification of school or program sites providing program activities;

(((~~(3)~~))) (c) How accelerated learning plans are developed and implemented for participating students. Accelerated learning plans may be developed as part of existing student achievement plan process such as student plans for achieving state high school graduation standards, individual student academic plans, or the achievement plans for groups of students. Accelerated learning plans shall include:

(((~~(a)~~))) (i) Achievement goals for the students;

(((~~(b)~~))) (ii) Roles of the student, parents, or guardians and teachers in the plan;

(((~~(c)~~))) (iii) Communication procedures regarding student accomplishment; and

(((~~(d)~~))) (iv) Plan reviews and adjustments processes;

(((~~(4)~~))) (d) How state level and classroom assessments are used to inform instruction;

(((~~(5)~~))) (e) How focused and intentional instructional strategies have been identified and implemented;

(((~~(6)~~))) (f) How highly qualified instructional staff are developed and supported in the program and in participating schools;

(((~~(7)~~))) (g) How other federal, state, district, and school resources are coordinated with school improvement plans and the district's strategic plan to support underachieving students; and

(((~~(8)~~))) (h) How a program evaluation will be conducted to determine direction for the following school year.

(2) If a school district has received approval of its plan once, it is not required to submit a plan for approval under RCW 28A.165.045 or this section unless the district has made a significant change to the plan. If a district has made a significant change to only a portion of the plan the district need only submit a description of the changes made and not the entire plan. Plans or descriptions of changes to the plan must be submitted by July 1st as required under this section. The office of the superintendent of public instruction shall establish guidelines for what a "significant change" is.

Sec. 2. RCW 28A.165.045 and 2004 c 20 s 5 are each amended to read as follows:

A participating school district shall ((~~annually~~)) submit a program plan to the office of the superintendent of public instruction for approval to the extent required by RCW 28A.165.025. The program plan must address all of the elements in RCW 28A.165.025

and identify the program activities to be implemented from RCW 28A.165.035.

School districts achieving state reading and mathematics goals as prescribed in chapter 28A.655 RCW shall have their program approved once the program plan and activities submittal is completed.

School districts not achieving state reading and mathematics goals as prescribed in chapter 28A.655 RCW and that are not in a state or federal program of school improvement shall be subject to program approval once the plan components are reviewed by the office of the superintendent of public instruction for the purpose of receiving technical assistance in the final development of the plan.

School districts with one or more schools in a state or federal program of school improvement shall have their plans and activities reviewed and approved in conjunction with the state or federal program school improvement program requirements.

Sec. 3. RCW 28A.210.010 and 1971 c 32 s 1 are each amended to read as follows:

The state board of health, after consultation with the superintendent of public instruction, shall adopt reasonable rules ((~~and regulations~~)) regarding the presence of persons on or about any school premises who have, or who have been exposed to, contagious diseases deemed by the state board of health as dangerous to the public health. Such rules ((~~and regulations~~)) shall specify reasonable and precautionary procedures as to such presence and/or readmission of such persons and may include the requirement for a certificate from a licensed physician that there is no danger of contagion. The superintendent of public instruction shall ((~~print and distribute the~~)) provide to appropriate school officials and personnel, access and notice of these rules ((~~and regulations~~)) of the state board of health ((~~above provided to appropriate school officials and personnel~~)). Providing online access to these rules satisfies the requirements of this section. The superintendent of public instruction is required to provide this notice only when there are significant changes to the rules.

Sec. 4. RCW 28A.210.040 and 1990 c 33 s 189 are each amended to read as follows:

The superintendent of public instruction shall ((~~print and distribute~~)) provide access to appropriate school officials the rules ((~~and regulations~~)) adopted by the state board of health pursuant to RCW 28A.210.020 and the recommended records and forms to be used in making and reporting such screenings. Providing online access to the materials satisfies the requirements of this section.

Sec. 5. RCW 28A.225.005 and 1992 c 205 s 201 are each amended to read as follows:

Each school within a school district shall inform the students and the parents of the students enrolled in the school about the compulsory education requirements under this chapter. The school shall ((~~distribute~~)) provide access to the information at least annually. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form.

Sec. 6. RCW 28A.225.290 and 1990 1st ex.s. c 9 s 207 are each amended to read as follows:

(1) The superintendent of public instruction shall prepare and annually ((~~distribute an~~)) provide access to information ((~~booklet~~)) outlining parents' and guardians' enrollment options for their children. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form.

(2) ((~~Before the 1991-92 school year, the booklet shall be distributed to all school districts by the office of the superintendent of public instruction. School districts shall have a copy of the information booklet available for public inspection at each school in the district, at the district office, and in public libraries~~)) School districts shall provide access to the information in this section to the public. Providing online access to the information satisfies the requirements of this subsection unless a parent or guardian specifically requests the information be provided in written form.

(3) The booklet shall include:

(a) Information about enrollment options and program opportunities, including but not limited to programs in RCW 28A.225.220, 28A.185.040, 28A.225.200 through 28A.225.215, 28A.225.230 through 28A.225.250, 28A.175.090, 28A.340.010 through 28A.340.070 (small high school cooperative projects), and 28A.335.160.

(b) Information about the running start - community college or vocational-technical institute choice program under RCW 28A.600.300 through ((~~28A.600.395~~)) 28A.600.390; and

(c) Information about the seventh and eighth grade choice program under RCW 28A.230.090.

Sec. 7. RCW 28A.225.300 and 1990 1st ex.s. c 9 s 208 are each amended to read as follows:

Each school district board of directors annually shall inform parents of the district's intradistrict and interdistrict enrollment options and parental involvement opportunities. Information on intradistrict enrollment options and interdistrict acceptance policies shall be provided to nonresidents on request. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically requests information to be provided in written form.

Sec. 8. RCW 28A.230.095 and 2006 c 113 s 2 are each amended to read as follows:

(1) By the end of the 2008-09 school year, school districts shall have in place in elementary schools, middle schools, and high schools assessments or other strategies chosen by the district to assure that students have an opportunity to learn the essential academic learning requirements in social studies, the arts, and health and fitness. Social studies includes history, geography, civics, economics, and social studies skills. Beginning with the 2008-09 school year, school districts shall annually submit an implementation verification report to the office of the superintendent of public instruction. The office of the superintendent of public instruction may not require school districts to use a classroom-based assessment in social studies, the arts, and health and fitness to meet the requirements of this section and shall clearly communicate to districts their option to use other strategies chosen by the district.

(2) Beginning with the 2008-09 school year, school districts shall require students in ((~~the fourth or fifth grades [grade],~~)) the seventh or eighth ((~~grades [grade]~~)) grade, and the eleventh or twelfth ((~~grades [grade]~~)) grade to each complete at least one classroom-based assessment in civics. Beginning with the 2010-11 school year, school districts shall require students in the fourth or fifth grade to complete at least one classroom-based assessment in civics. The civics assessment may be selected from a list of classroom-based assessments approved by the office of the superintendent of public instruction. Beginning with the 2008-09 school year, school districts shall annually submit implementation verification reports to the office of the superintendent of public instruction documenting the use of the classroom-based assessments in civics.

(3) Verification reports shall require school districts to report only the information necessary to comply with this section.

Sec. 9. RCW 28A.230.125 and 2006 c 263 s 401 and 2006 c 115 s 6 are each reenacted and amended to read as follows:

(1) The superintendent of public instruction, in consultation with the higher education coordinating board, the state board for community and technical colleges, and the workforce training and education coordinating board, shall develop for use by all public school districts a standardized high school transcript. The superintendent shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

(2) The standardized high school transcript shall include a notation of whether the student has earned a certificate of individual achievement or a certificate of academic achievement.

((~~(3) Transcripts are important documents to students who will apply for admission to postsecondary institutions of higher education. Transcripts are also important to students who will seek employment upon or prior to graduation from high school. It is recognized that student transcripts may be the only record available to employers in their decision-making processes regarding prospective employees. The superintendent of public instruction shall require school districts to inform annually all high school students that prospective employers may request to see transcripts and that the prospective employee's decision to release transcripts can be an important part of the process of applying for employment.~~))

Sec. 10. RCW 28A.300.040 and 2006 c 263 s 104 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state;

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools;

(3) To prepare and have printed such forms, registers, courses of study, rules for the government of the common schools, and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents;

(4) To travel, without neglecting his or her other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, and of consulting educational service district superintendents or other school officials;

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be ((~~provided in such numbers as determined by the superintendent of public instruction at no cost to those public agencies within the common school system~~)) made available online and which shall be sold at approximate actual cost of publication and distribution per volume to ((~~all other~~)) public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules related to the common schools, and such other matter as the state superintendent or the state board of education shall determine. Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state superintendent's account within the state printing plant revolving fund by a like amount;

(6) To file all papers, reports and public documents transmitted to the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in the superintendent's office, and the superintendent's official acts, may, or upon request, shall be certified by the superintendent and attested by the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to;

(7) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report as required by the superintendent of public instruction; and it is the duty of every president, manager, or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct;

(8) To keep in the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state;

(9) To issue certificates as provided by law;

(10) To keep in the superintendent's office at the capital of the state, all books and papers pertaining to the business of the superintendent's office, and to keep and preserve in the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education;

(11) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to the superintendent in writing by any educational service district superintendent, or that may be submitted to the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and the superintendent's decision shall be final unless set aside by a court of competent jurisdiction;

(12) To administer oaths and affirmations in the discharge of the superintendent's official duties;

(13) To deliver to his or her successor, at the expiration of the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to the superintendent's office or which may have been received by the superintendent's for the use of the superintendent's office;

(14) To administer family services and programs to promote the state's policy as provided in RCW 74.14A.025;

(15) To promote the adoption of school-based curricula and policies that provide quality, daily physical education for all students, and to encourage policies that provide all students with opportunities for physical activity outside of formal physical education classes;

(16) To perform such other duties as may be required by law.

Sec. 11. RCW 28A.300.525 and 2008 c 297 s 2 are each amended to read as follows:

(1) The superintendent of public instruction shall provide an annual aggregate report to the legislature on the educational experiences and progress of students in children's administration out-of-home care. This data should be disaggregated in the smallest units allowable by law that do not identify an individual student, in order to learn which school districts are experiencing the greatest success and challenges in achieving quality educational outcomes with students in children's administration out-of-home care.

(2) This section is suspended until July 1, 2011.

Sec. 12. RCW 28A.320.165 and 2001 c 333 s 4 are each amended to read as follows:

Schools as defined in RCW 17.21.415 shall provide notice of pesticide use to parents or guardians of students and employees pursuant to chapter 17.21 RCW, upon the request of the parent or guardian.

Sec. 13. RCW 28A.320.180 and 2007 c 396 s 11 are each amended to read as follows:

(1) Subject to funding appropriated for this purpose and beginning in the fall of 2009, school districts shall provide all high school students enrolled in the district the option of taking the mathematics college readiness test developed under RCW

28B.10.679 once at no cost to the students. Districts shall encourage, but not require, students to take the test in their junior or senior year of high school.

(2) Subject to funding appropriated for this purpose, the office of the superintendent of public instruction shall reimburse each district for the costs incurred by the district in providing students the opportunity to take the mathematics placement test.

(3) This section is suspended until July 1, 2011.

Sec. 14. RCW 28A.600.160 and 1998 c 225 s 2 are each amended to read as follows:

Any middle school, junior high school, or high school using educational pathways shall ensure that all participating students will continue to have access to the courses and instruction necessary to meet admission requirements at baccalaureate institutions. Students shall be allowed to enter the educational pathway of their choice. Before accepting a student into an educational pathway, the school shall inform the student's parent of the pathway chosen, the opportunities available to the student through the pathway, and the career objectives the student will have exposure to while pursuing the pathway. Providing online access to the information satisfies the requirements of this section unless a parent or guardian specifically request information to be provided in written form. Parents and students dissatisfied with the opportunities available through the selected educational pathway shall be provided with the opportunity to transfer the student to any other pathway provided in the school. Schools may not develop educational pathways that retain students in high school beyond the date they are eligible to graduate, and may not require students who transfer between pathways to complete pathway requirements beyond the date the student is eligible to graduate. Educational pathways may include, but are not limited to, programs such as work-based learning, ((~~school-to-work transition,~~)) tech prep, ((~~vocational-technical~~)) career and technical education, running start, and preparation for technical college, community college, or university education.

Sec. 15. RCW 28A.655.075 and 2007 c 396 s 16 are each amended to read as follows:

(1) Within funds specifically appropriated therefor, by December 1, 2008, the superintendent of public instruction shall develop essential academic learning requirements and grade level expectations for educational technology literacy and technology fluency that identify the knowledge and skills that all public school students need to know and be able to do in the areas of technology and technology literacy. The development process shall include a review of current standards that have been developed or are used by other states and national and international technology associations. To the maximum extent possible, the superintendent shall integrate goal four and the knowledge and skill areas in the other goals in the technology essential academic learning requirements.

(a) As used in this section, "technology literacy" means the ability to responsibly, creatively, and effectively use appropriate technology to communicate; access, collect, manage, integrate, and evaluate information; solve problems and create solutions; build and share knowledge; and improve and enhance learning in all subject areas and experiences.

(b) Technology fluency builds upon technology literacy and is demonstrated when students: Apply technology to real-world experiences; adapt to changing technologies; modify current and create new technologies; and personalize technology to meet personal needs, interests, and learning styles.

(2)(a) Within funds specifically appropriated therefor, the superintendent shall obtain or develop education technology assessments that may be administered in the elementary, middle, and high school grades to assess the essential academic learning requirements for technology. The assessments shall be designed to be classroom or project-based so that they can be embedded in classroom instruction and be administered and scored by school staff throughout the regular school year using consistent scoring criteria and procedures. By the 2010-11 school year, these assessments shall be made available to school districts for the districts' voluntary use. If a school district uses the assessments created under this section, then the school district shall notify the superintendent of public instruction of the use. The superintendent shall report annually to the legislature on the number of school districts that use the assessments each school year.

(b) Beginning December 1, 2010, and annually thereafter, the superintendent of public instruction shall provide a report to the relevant legislative committees regarding the use of the assessments.

(3) This section is suspended until July 1, 2011.

Sec. 16. RCW 17.21.415 and 2001 c 333 s 3 are each amended to read as follows:

(1) As used in this section, "school" means a licensed day care center or a public kindergarten or a public elementary or secondary school.

(2) A school shall provide written notification ((~~annually or upon enrollment~~)), upon request, to parents or guardians of students and employees describing the school's pest control policies and methods, including the posting and notification requirements of this section.

(3) A school shall establish a notification system that, as a minimum, notifies interested parents or guardians of students and employees at least forty-eight hours before a pesticide application to a school facility. The notification system shall include posting of the notification in a prominent place in the main office of the school.

(4) All notifications to parents, guardians, and employees shall include the heading "Notice: Pesticide Application" and, at a minimum, shall state:

(a) The product name of the pesticide to be applied;

(b) The intended date and time of application;

(c) The location to which the pesticide is to be applied;

(d) The pest to be controlled; and

(e) The name and phone number of a contact person at the school.

(5) A school facility application must be made within forty-eight hours following the intended date and time stated in the notification or the notification process shall be repeated.

(6) A school shall, at the time of application, post notification signs for all pesticide applications made to school facilities unless the application is otherwise required to be posted by a certified applicator under the provisions of RCW 17.21.410(1)(d).

(a) Notification signs for applications made to school grounds by school employees shall be placed at the location of the application and at each primary point of entry to the school grounds. The signs shall be a minimum of four inches by five inches and shall include the words: "THIS LANDSCAPE HAS BEEN RECENTLY SPRAYED OR TREATED WITH PESTICIDES BY YOUR SCHOOL" as the headline and "FOR MORE INFORMATION PLEASE CALL" as the footer. The footer shall provide the name and telephone number of a contact person at the school.

(b) Notification signs for applications made to school facilities other than school grounds shall be posted at the location of the application. The signs shall be a minimum of eight and one-half by eleven inches and shall include the heading "Notice: Pesticide Application" and, at a minimum, shall state:

(i) The product name of the pesticide applied;

(ii) The date and time of application;

(iii) The location to which the pesticide was applied;

(iv) The pest to be controlled; and

(v) The name and phone number of a contact person at the school.

(c) Notification signs shall be printed in colors contrasting to the background.

(d) Notification signs shall remain in place for at least twenty-four hours from the time the application is completed. In the event the pesticide label requires a restricted entry interval greater than twenty-four hours, the notification sign shall remain in place consistent with the restricted entry interval time as required by the label.

(7) A school facility application does not include the application of antimicrobial pesticides or the placement of insect or rodent baits that are not accessible to children.

(8) The prenotification requirements of this section do not apply if the school facility application is made when the school is not occupied by students for at least two consecutive days after the application.

(9) The prenotification requirements of this section do not apply to any emergency school facility application for control of any pest that poses an immediate human health or safety threat, such as an application to control stinging insects. When an emergency school facility application is made, notification consistent with the school's notification system shall occur as soon as possible after the application. The notification shall include information consistent with subsection (6)(b) of this section.

(10) A school shall make the records of all pesticide applications to school facilities required under this chapter, including an annual summary of the records, readily accessible to interested persons.

(11) A school is not liable for the removal of signs by unauthorized persons. A school that complies with this section may not be held liable for personal property damage or bodily injury resulting from signs that are placed as required.

Sec. 17. RCW 28A.650.015 and 2006 c 263 s 917 are each amended to read as follows:

(1) The superintendent of public instruction, to the extent funds are appropriated, shall develop and implement a Washington state K-12 education technology plan. The technology plan shall be updated on at least a biennial basis, shall be developed to coordinate and expand the use of education technology in the common schools of the state. The plan shall be consistent with applicable provisions of chapter 43.105 RCW. The plan, at a minimum, shall address:

(a) The provision of technical assistance to schools and school districts for the planning, implementation, and training of staff in the use of technology in curricular and administrative functions;

(b) The continued development of a network to connect school districts, institutions of higher learning, and other sources of online information; and

(c) Methods to equitably increase the use of education technology by students and school personnel throughout the state.

(2) The superintendent of public instruction shall appoint an educational technology advisory committee to assist in the development and implementation of the technology plan in subsection (1) of this section. The committee shall include, but is not limited to, persons representing: The department of information services, educational service districts, school directors, school administrators, school principals, teachers, classified staff, higher education faculty, parents, students, business, labor, scientists and mathematicians, the higher education coordinating board, the workforce training and education coordinating board, and the state library.

(3) The plan adopted and implemented under this section may not impose on school districts any requirements that are not specifically required by federal law or regulation, including requirements to maintain eligibility for the federal schools and libraries program of the universal service fund.

Sec. 18. RCW 28A.210.020 and 1971 c 32 s 2 are each amended to read as follows:

Every board of school directors shall have the power, and it shall be its duty to provide for and require screening for the visual and auditory acuity of all children attending schools in their districts to ascertain which if any of such children have defects sufficient to retard them in their studies. Auditory and visual screening shall be made in accordance with procedures and standards adopted by rule or regulation of the state board of health. Prior to the adoption or revision of such rules or regulations the state board of health shall seek the recommendations of the superintendent of public instruction regarding the administration of visual and auditory screening and the qualifications of persons competent to administer such screening. Persons performing visual screening may include, but are not limited to, ophthalmologists, optometrists, or opticians who donate their professional services to schools or school districts. If a vision professional who donates his or her services identifies a vision defect sufficient to affect a student's learning, the vision professional must notify the school nurse and/or the school principal in writing and may not contact the student's parents or guardians directly. A school official shall inform parents or guardians of students in writing that a visual examination was recommended, but may not communicate the name or contact information of the vision professional conducting the screening.

Sec. 19. RCW 28A.655.065 and 2008 c 170 s 205 are each amended to read as follows:

(1) The legislature has made a commitment to rigorous academic standards for receipt of a high school diploma. The primary way that students will demonstrate that they meet the standards in reading, writing, mathematics, and science is through the Washington assessment of student learning. Only objective assessments that are comparable in rigor to the state assessment are authorized as an alternative assessment. Before seeking an alternative assessment, the legislature expects students to make a genuine effort to meet state standards, through regular and consistent attendance at school and participation in extended learning and other assistance programs.

(2) Under RCW 28A.655.061, beginning in the 2006-07 school year, the superintendent of public instruction shall implement objective alternative assessment methods as provided in this section for students to demonstrate achievement of the state standards in content areas in which the student has not yet met the standard on the high school Washington assessment of student learning. A student may access an alternative if the student meets applicable eligibility criteria in RCW 28A.655.061 and this section and other eligibility criteria established by the superintendent of public instruction, including but not limited to attendance criteria and participation in the remediation or supplemental instruction contained in the student learning plan developed under RCW 28A.655.061. A school district may waive attendance and/or remediation criteria for special, unavoidable circumstances.

(3) For the purposes of this section, "applicant" means a student seeking to use one of the alternative assessment methods in this section.

(4) One alternative assessment method shall be a combination of the applicant's grades in applicable courses and the applicant's

highest score on the high school Washington assessment of student learning, as provided in this subsection. A student is eligible to apply for the alternative assessment method under this subsection (4) if the student has a cumulative grade point average of at least 3.2 on a four point grading scale. The superintendent of public instruction shall determine which high school courses are applicable to the alternative assessment method and shall issue guidelines to school districts.

(a) Using guidelines prepared by the superintendent of public instruction, a school district shall identify the group of students in the same school as the applicant who took the same high school courses as the applicant in the applicable content area. From the group of students identified in this manner, the district shall select the comparison cohort that shall be those students who met or slightly exceeded the state standard on the Washington assessment of student learning.

(b) The district shall compare the applicant's grades in high school courses in the applicable content area to the grades of students in the comparison cohort for the same high school courses. If the applicant's grades are equal to or above the mean grades of the comparison cohort, the applicant shall be deemed to have met the state standard on the alternative assessment.

(c) An applicant may not use the alternative assessment under this subsection (4) if there are fewer than six students in the comparison cohort.

(5) The superintendent of public instruction shall develop an alternative assessment method that shall be an evaluation of a collection of work samples prepared and submitted by the applicant. Effective September 1, 2009, collection of work samples may be submitted only in content areas where meeting the state standard on the high school assessment is required for purposes of graduation.

(a) The superintendent of public instruction shall develop guidelines for the types and number of work samples in each content area that may be submitted as a collection of evidence that the applicant has met the state standard in that content area. Work samples may be collected from academic, career and technical, or remedial courses and may include performance tasks as well as written products. The superintendent shall submit the guidelines for approval by the state board of education.

(b) The superintendent shall develop protocols for submission of the collection of work samples that include affidavits from the applicant's teachers and school district that the samples are the work of the applicant and a requirement that a portion of the samples be prepared under the direct supervision of a classroom teacher. The superintendent shall submit the protocols for approval by the state board of education.

(c) The superintendent shall develop uniform scoring criteria for evaluating the collection of work samples and submit the scoring criteria for approval by the state board of education. Collections shall be scored at the state level or regionally by a panel of educators selected and trained by the superintendent to ensure objectivity, reliability, and rigor in the evaluation. An educator may not score work samples submitted by applicants from the educator's school district. If the panel awards an applicant's collection of work samples the minimum required score, the applicant shall be deemed to have met the state standard on the alternative assessment.

(d) Using an open and public process that includes consultation with district superintendents, school principals, and other educators, the state board of education shall consider the guidelines, protocols, scoring criteria, and other information regarding the collection of work samples submitted by the superintendent of public instruction. The collection of work samples may be implemented as an alternative assessment after the state board of education has approved the guidelines, protocols, and scoring criteria and determined that the collection of work samples: (i) Will meet professionally accepted standards for a valid and reliable measure of the grade level expectations and the essential academic learning requirements; and (ii) is comparable to or exceeds the rigor of the skills and knowledge that a student must demonstrate on the Washington assessment of student learning in the applicable content area. The state board shall make an approval decision and determination no later than December 1, 2006, and thereafter may increase the required rigor of the collection of work samples.

(e) By September of 2006, the superintendent of public instruction shall develop informational materials for parents, teachers, and students regarding the collection of work samples and the status of its development as an alternative assessment method. The materials shall provide specific guidance regarding the type and number of work samples likely to be required, include examples of work that meets the state learning standards, and describe the scoring criteria and process for the collection. The materials shall also encourage students in the graduating class of 2008 to begin creating a collection if they believe they may seek to use the collection once it is implemented as an alternative assessment.

(6)(a) For students enrolled in a career and technical education program approved under RCW 28A.700.030, the superintendent of public instruction shall develop additional guidelines for collections of work samples that are tailored to different career and technical programs. The additional guidelines shall:

(i) Provide multiple examples of work samples that are related to the particular career and technical program;

(ii) Permit work samples based on completed activities or projects where demonstration of academic knowledge is inferred; and

(iii) Provide multiple examples of work samples drawn from career and technical courses.

(b) The purpose of the additional guidelines is to provide a clear pathway toward a certificate of academic achievement for career and technical students by showing them applied and relevant opportunities to demonstrate their knowledge and skills, and to provide guidance to teachers in integrating academic and career and technical instruction and assessment and assisting career and technical students in compiling a collection. The superintendent of public instruction shall develop and disseminate additional guidelines for no fewer than ten career and technical education programs representing a variety of program offerings by no later than September 1, 2008. Guidelines for ten additional programs shall be developed and disseminated no later than June 1, 2009.

(c) The superintendent shall consult with community and technical colleges, employers, the workforce training and education coordinating board, apprenticeship programs, and other regional and national experts in career and technical education to create appropriate guidelines and examples of work samples and other evidence of a career and technical student's knowledge and skills on the state academic standards.

(7) The superintendent of public instruction shall study the feasibility of using existing mathematics assessments in languages other than English as an additional alternative assessment option. The study shall include an estimation of the cost of translating the tenth grade mathematics assessment into other languages and scoring the assessments should they be implemented.

(8) The superintendent of public instruction shall implement:

(a) By June 1, 2006, a process for students to appeal the score they received on the high school assessments; and

(b) By January 1, 2007, guidelines and appeal processes for waiving specific requirements in RCW 28A.655.061 pertaining to the

certificate of academic achievement and to the certificate of individual achievement for students who: (i) Transfer to a Washington public school in their junior or senior year with the intent of obtaining a public high school diploma, or (ii) have special, unavoidable circumstances.

(9) The state board of education shall examine opportunities for additional alternative assessments, including the possible use of one or more standardized norm-referenced student achievement tests and the possible use of the reading, writing, or mathematics portions of the ACT ASSET and ACT COMPASS test instruments as objective alternative assessments for demonstrating that a student has met the state standards for the certificate of academic achievement. The state board shall submit its findings and recommendations to the education committees of the legislature by January 10, 2008.

(10) The superintendent of public instruction shall adopt rules to implement this section.

NEW SECTION. Sec. 20. The following acts or parts of acts, as now existing or hereafter amended, are each repealed:

1.1.1.1. RCW 28A.230.092 (Washington state history and government-- Course content) and 2008 c 190 s 2;

1.1.1.2. RCW 28A.230.185 (Family preservation education program) and 2005 c 491 s 2;

1.1.1.3. RCW 28A.300.412 (Washington civil liberties public education program--Report) and 2000 c 210 s 6;

1.1.1.4. RCW 28A.600.415 (Alternatives to suspension--Community service encouraged--Information provided to school districts) and 1992 c 155 s 2;

1.1.1.5. RCW 28A.625.010 (Short title) and 1995 c 335 s 107, 1990 c 33 s 513, & 1986 c 147 s 1;

1.1.1.6. RCW 28A.625.020 (Recipients--Awards) and 1991 c 255 s 1;

1.1.1.7. RCW 28A.625.030 (Washington State Christa McAuliffe award for teachers) and 1991 c 255 s 2 & 1986 c 147 s 3;

1.1.1.8. RCW 28A.625.042 (Certificates--Recognition awards) and 1994 c 279 s 4;

1.1.1.9. RCW 28A.625.050 (Rules) and 1995 c 335 s 108, 1991 c 255 s 8, 1990 c 33 s 516, 1988 c 251 s 2, & 1986 c 147 s 5;

1.1.1.10. RCW 28A.625.350 (Short title) and 1990 1st ex.s. c 10 s 1;

1.1.1.11. RCW 28A.625.360 (Excellence in teacher preparation award) and 2006 c 263 s 804 & 1990 1st ex.s. c 10 s 2;

1.1.1.12. RCW 28A.625.370 (Award for teacher educator) and 2006 c 263 s 820 & 1990 1st ex.s. c 10 s 3;

1.1.1.13. RCW 28A.625.380 (Rules) and 2006 c 263 s 821 & 1990 1st ex.s. c 10 s 4;

1.1.1.14. RCW 28A.625.390 (Educational grant--Eligibility--Award) and 2006 c 263 s 822 & 1990 1st ex.s. c 10 s 5;

1.1.1.15. RCW 28A.625.900 (Severability--1990 1st ex.s. c 10) and 1990 1st ex.s. c 10 s 10;

1.1.1.16. RCW 28A.630.045 (Local control and flexibility in assessments--Pilot project) and 2006 c 175 s 1; and

1.1.1.17. RCW 28A.630.881 (School-to-work transition project--Findings-- Intent--Outreach--Technical assistance) and 1997 c 58 s 304.

NEW SECTION. Sec. 21. Sections 11, 13, and 15 of this act expire July 1, 2011."

Correct the title.

Representatives Quall and Anderson spoke in favor of the adoption of the amendment.

Amendment (885) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5889, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5889, as amended by the House, and the bill passed the House by the following vote: Yeas, 94; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Klippert, Kretz, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representative Hasegawa.

Excused: Representatives Armstrong, Kirby and Kristiansen.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5889, as amended by the House, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 21, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to SUBSTITUTE SENATE BILL NO. 5431, and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment to SUBSTITUTE SENATE BILL NO. 5431. Under suspension of the rules, the bill was returned to second reading for the purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SUBSTITUTE SENATE BILL NO. 5431, by Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Regala, McAuliffe, Carrell, Brandland and King)

Regarding placement of a child returning to out-of-home care.

Representative Kagi moved the adoption of amendment (887):

On page 1, line 9, after "child." insert "Pursuant to RCW 13.34.060 and 13.34.130, placement of the child with a relative or other suitable person is the preferred option."

Beginning on page 1, line 14, after "care," strike all material through "and the" on page 2, line 3, and insert "and the department cannot locate an appropriate and available relative or other suitable person, the preferred placement for the child is in a foster family home where the child previously was placed, if the following conditions are met:

(a) The foster family home is available and willing to care for the child;

(b) The foster family is appropriate and able to meet the child's needs; and

(c) The"

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

"**NEW SECTION. Sec. 2.** A new section is added to chapter 13.34 RCW to read as follows:

If a child has been previously placed in out-of-home care and is subsequently returned to out-of-home care, and the department cannot locate an appropriate and available relative or other suitable person, the preferred placement for the child is in a foster family home where the child previously was placed, if the following conditions are met:

(1) The foster family home is available and willing to care for the child;

(2) The foster family is appropriate and able to meet the child's needs; and

(3) The placement is in the best interest of the child."

Correct the title.

Representatives Kagi and Haler spoke in favor of the adoption of the amendment.

Amendment (887) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representative Kagi spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5431, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5431, as amended by the House, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Klippert, Kretz, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Armstrong, Kirby and Kristiansen.

SUBSTITUTE SENATE BILL NO. 5431, as amended by the House, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 19, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to SENATE BILL NO. 5548 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House advanced to the seventh order of business.

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House insisted on its position in its amendments to SENATE BILL NO. 5548 and asked the Senate to concur therein.

MESSAGE FROM THE SENATE

April 20, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to SECOND SUBSTITUTE SENATE BILL NO. 5433 and asks the House for a Conference thereon, and the same is herewith transmitted

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

MOTION

Representative Hunter moved to grant the Senate's request for a Conference on SECOND SUBSTITUTE SENATE BILL NO. 5433.

Representative Hunter spoke in favor of the motion to grant the Senate's request.

Representative Orcutt spoke against the motion to grant the Senate's request.

An electronic roll call was requested.

The Speaker (Representative Moeller presiding) stated the question before the House to be the motion to grant the Senate's request for a Conference on Second Substitute Senate Bill No. 5433.

ROLL CALL

The Clerk called the roll on the motion to grant the Senate's request for a Conference on Second Substitute Senate Bill No. 5433 and the motion was adopted by the following vote: Yeas: 54; Nays: 41; Absent: 0; Excused: 3

Voting yea: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Kelley, Klippert, Kretz, McCune, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Rolfes, Ross, Schmick, Shea, Short, Smith, Taylor, Wallace, Walsh and Warnick.

Excused: Representatives Armstrong, Kirby and Kristiansen.

The Speaker (Representative Moeller presiding) appointed Representatives Hunter, Nelson and Orcutt as Conferees.

MESSAGE FROM THE SENATE

April 22, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO 5352 and asks the House for a Conference thereon. The President has appointed following members as Conferees: Senators Haugen, Marr and Swecker, and the same is herewith transmitted

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House granted the Senate's request for a Conference on ENGROSSED SUBSTITUTE SENATE BILL NO. 5352. The Speaker (Representative Moeller presiding) appointed Representatives Clibborn, Liias and Roach as Conferees.

There being no objection, the House reverted to the fourth order of business.

INTRODUCTION AND FIRST READING

ESB 6183 by Senator Regala

AN ACT Relating to early deportation of illegal alien offenders; and amending RCW 9.94A.685.

There being no objection, ENGROSSED SENATE BILL NO. 6183 was read the first time, and under suspension of the rules, the bill was placed on the second reading calendar.

There being no objection, the House advanced to the eighth order of business.

There being no objection, the Committee on Rules was relieved of the following bills, and the bills were placed on the second reading calendar:

HOUSE BILL NO. 1216
HOUSE BILL NO. 1244
HOUSE BILL NO. 1272

There being no objection, the following bills were returned to the Committee on Rules:

HOUSE BILL NO. 2250
HOUSE BILL NO. 2351
HOUSE BILL NO. 2348

There being no objection, the House reverted to the sixth order of business.

SECOND READING

ENGROSSED SENATE BILL NO. 6173, by Senator Prentice

Improving sales tax compliance.

The bill was read the second time.

Representative Hunter moved the adoption of amendment (888):

Strike everything after the enacting clause and insert the following:

"**PART I**
FINDING AND INTENT

NEW SECTION. Sec. 101. The legislature finds that the department of revenue's 2008 compliance study estimates that sales tax noncompliance exceeds well over one hundred million dollars annually in unpaid state and local sales and use taxes.

The legislature intends to address this significant problem by eliminating the use of resale certificates to document wholesale purchases. Resale certificates will be replaced with seller's permits, which will be issued by the department of revenue only to those businesses that make wholesale purchases, such as retailers, wholesalers, manufacturers, and qualified contractors. Businesses that do not make wholesale purchases, such as most service businesses, will not be entitled to a seller's permit.

PART II
REPLACING RESALE CERTIFICATES
WITH SELLER'S PERMITS
ISSUED BY THE DEPARTMENT OF REVENUE

NEW SECTION. Sec. 201. A new section is added to chapter 82.32 RCW to read as follows:

(1) Taxpayers seeking a new seller's permit or to renew or reinstate a seller's permit, other than taxpayers subject to the provisions of section 202 of this act, must apply to the department in a form and manner prescribed by the department. The department must rule on applications within sixty days of receiving a complete application. An application must be denied if the department determines that, based on the nature of the applicant's business, the applicant is not entitled to make purchases at wholesale or is otherwise prohibited from using a seller's permit. The department may also deny an application if it determines that denial would be in the best interest of collecting taxes due under this title. The department's decision whether to approve or deny an application may be based on tax returns previously filed with the department by the applicant, a current or previous examination of the applicant's books and records by the department, information provided by the applicant

in the master application and the seller's permit application, and other information available to the department.

(2) Notwithstanding subsection (1) of this section, the department may issue a seller's permit to a taxpayer that has not applied for the permit if it appears to the department's satisfaction, based on the nature of the taxpayer's business activities and any other information available to the department, that the taxpayer is entitled to make purchases at wholesale.

(3) Seller's permits issued by the department will be in a form prescribed by the department, which may include an electronic form, and must contain a unique identifying number assigned by the department.

(4)(a) Except as otherwise provided in this section, seller's permits issued, renewed, or reinstated under this section will be valid for a period of forty-eight months from the date of issuance, renewal, or reinstatement.

(b) A seller's permit issued to taxpayers who register with the department under RCW 82.32.030 after January 1, 2009, is valid for a period of twenty-four months and may be renewed for the period prescribed in (a) of this subsection (4).

(c) A seller's permit is no longer valid if the permit holder's certificate of registration is revoked by the department or the person otherwise ceases to engage in business.

(5)(a) The department may revoke a seller's permit of a taxpayer for any of the following reasons:

(i) The taxpayer used or allowed or caused its seller's permit to be used to purchase any item or service without payment of sales tax, but the taxpayer or other purchaser was not entitled to use the seller's permit for the purchase;

(ii) The department issued the seller's permit to the taxpayer in error;

(iii) The department determines that the taxpayer is no longer entitled to make purchases at wholesale; or

(iv) The department determines that revocation of the seller's permit would be in the best interest of collecting taxes due under this title.

(b) The notice of revocation must be in writing and is effective on the date specified in the revocation notice. The notice must also advise the taxpayer of its right to a review by the department.

(c) The department may refuse to reinstate a seller's permit revoked under (a)(i) of this subsection until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full. In the event a taxpayer whose seller's permit has been revoked under this subsection reorganizes, the new business resulting from the reorganization is not entitled to a seller's permit until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full.

(d) For purposes of this subsection, "reorganize" or "reorganization" means: (i) The transfer, however effected, of a majority of the assets of one business to another business where any of the persons having an interest in the ownership or management in the former business maintain an ownership or management interest in the new business, either directly or indirectly; (ii) a mere change in identity or form of ownership, however effected; or (iii) the new business is a mere continuation of the former business based on significant shared features such as owners, personnel, assets, or general business activity.

(6) The department may provide lists of valid and revoked seller's permit numbers on its web site.

(7) The department must provide by rule for the review of the department's decision to deny, revoke, or refuse to reinstate a seller's permit. Such review must be consistent with the requirements of chapter 34.05 RCW.

(8) As part of its continuing efforts to educate taxpayers on their sales and use tax responsibilities, the department will educate taxpayers on the appropriate use of a seller's permit or uniform exemption certificate authorized under RCW 82.04.470 and the consequences of misusing such permits or exemption certificates.

Sec. 202. A new section is added to chapter 82.32 RCW to read as follows:

(1)(a) Contractors seeking a new seller's permit or to renew or reinstate a seller's permit must apply to the department in a form and manner prescribed by the department.

(b) As part of the application, the contractor must report the dollar amount of all purchases of materials and labor during the preceding twelve months for retail construction activity, speculative building, public road construction, and government contracting. If the contractor was not engaged in business as a contractor during the preceding twelve months, the contractor may provide an estimate of the dollar amount of purchases of materials and labor for retail construction activity, speculative building, public road construction, and government contracting during the twelve-month period for which the seller's permit will be valid.

(c) The department must rule on applications within sixty days of receiving a complete application.

(d)(i) An application must be denied if:

(A) The department determines that the applicant is not entitled to make purchases at wholesale;

(B) The application contains any material misstatement;

(C) The application is incomplete; or

(D) Less than twenty-five percent of the taxpayer's total dollar amount of actual or, if applicable, estimated material and labor purchases as reported on the application is for retail construction activity performed by the applicant. However, the department may approve an application not meeting the criteria in this subsection (1)(d)(i)(D) if the department is satisfied that approval is unlikely to jeopardize collection of the taxes due under this title.

(ii) The department may also deny an application if the department determines that denial would be in the best interest of collecting taxes due under this title.

(e) Applications to renew a seller's permit may not be made more than ninety days before the expiration of the seller's permit.

(2) Sellers' permits issued by the department will be in a form prescribed by the department, which may include an electronic form, and must contain a unique identifying number assigned by the department.

(3)(a) Sellers' permits issued, renewed, or reinstated under this section will be valid for a period of twelve months from the date of issuance, renewal, or reinstatement.

(b) A seller's permit is no longer valid if the permit holder's certificate of registration is revoked by the department or the person otherwise ceases to engage in business.

(4)(a) The department may revoke a seller's permit of a contractor for any of the following reasons:

(i) The contractor used or allowed or caused its seller's permit to be used to purchase any item or service without payment of sales tax, but the contractor or other purchaser was not entitled to use the seller's permit for the purchase;

(ii) The department issued the seller's permit to the contractor in error;

(iii) The department determines that the contractor is no longer entitled to make purchases at wholesale; or

(iv) The department determines that revocation of the seller's permit would be in the best interest of collecting taxes due under this title.

(b) The notice of revocation must be in writing and is effective on the date specified in the revocation notice. The notice must also advise the contractor of its right to a review by the department.

(c) The department may refuse to reinstate a seller's permit revoked under (a)(i) of this subsection until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full. In the event a contractor whose seller's permit has been revoked under this subsection reorganizes, the new business resulting from the reorganization is not entitled to a seller's permit until all taxes, penalties, and interest due on any improperly purchased item or service have been paid in full.

(d) For purposes of this subsection, "reorganize" or "reorganization" means: (i) The transfer, however effected, of a majority of the assets of one business to another business where any of the persons having an interest in the ownership or management in the former business maintain an ownership or management interest in the new business, either directly or indirectly; (ii) a mere change in identity or form of ownership, however effected; or (iii) the new business is a mere continuation of the former business based on significant shared features such as owners, personnel, assets, or general business activity.

(5) The department may provide lists of valid and revoked sellers' permit numbers on its web site.

(6) The department must provide by rule for the review of the department's decision to deny, revoke, or refuse to reinstate a seller's permit. Such review must be consistent with the requirements of chapter 34.05 RCW.

(7) As part of its continuing efforts to educate taxpayers on their sales and use tax responsibilities, the department will educate taxpayers on the appropriate use of a seller's permit or uniform exemption certificate authorized under RCW 82.04.470 and the consequences of misusing such permits or exemption certificates.

(8) As used in this section, the following definitions apply:

(a) "Contractor" means a person who engages in any retail construction activity, or who engages in any activity that brings the person within the definition of consumer in RCW 82.04.190(3) or (6), or who is a speculative builder as defined by rule of the department.

(b) "Government contracting" means the activity described in RCW 82.04.190(6).

(c) "Public road construction" means the activity described in RCW 82.04.190(3).

(d) "Retail construction activity" means any activity defined as a retail sale in RCW 82.04.050(2)(b) or (c).

(e) "Speculative building" means the activities of a speculative builder as the term "speculative builder" is defined by rule of the department.

NEW SECTION. Sec. 203. A new section is added to chapter 82.32 RCW to read as follows:

The department of revenue must, by January 1, 2011, develop a system, as resources permit, allowing sellers to voluntarily verify through electronic means the validity of sellers' permits presented to sellers from their customers.

NEW SECTION. Sec. 204. A new section is added to chapter 82.32 RCW to read as follows:

A person must, upon request of the department, provide the department with a copy of all sellers' permits, or uniform exemption certificates as authorized in RCW 82.04.470, accepted by that person during the period specified by the department.

Sec. 205. RCW 82.04.470 and 2007 c 6 s 1201 are each amended to read as follows:

(1) Unless a seller has taken from the buyer a ((~~resale certificate~~)) seller's permit, the burden of proving that a sale of tangible personal property, extended warranty, or of services, was not a sale at retail shall be upon the person who made it.

(2) If a seller does not receive a ((~~resale certificate~~)) seller's permit at the time of the sale, have a ((~~resale certificate~~)) seller's permit on file at the time of the sale, or obtain a ((~~resale certificate~~)) seller's permit from the buyer within a reasonable time after the sale, the seller shall remain liable for the tax as provided in RCW 82.08.050, unless the seller can demonstrate facts and circumstances according to rules adopted by the department ((~~of revenue~~)) that show the sale was properly made without payment of retail sales tax.

(3) ((~~The department may provide by rule for suggested forms for resale certificates or equivalent documents containing the information that will be accepted as resale certificates. The department shall provide by rule the categories of items or services that must be specified on resale certificates and the business classifications that may use a blanket resale certificate.~~

~~(4) As used in this section, "resale certificate" means documentation provided by a buyer to a seller stating that the purchase is for resale in the regular course of business, or that the buyer is exempt from retail sales tax, and containing the following information~~)) A seller's permit must contain such information as required by the department, which may include, but is not limited to:

(a) The name and address of the buyer;

(b) The ((~~uniform business identifier or revenue registration number of the buyer, if the buyer is required to be registered~~)) seller's permit number issued by the department;

(c) The type of business engaged in;

(d) The categories of items or services to be purchased for resale or that are ((~~exempt~~)) otherwise to be purchased at wholesale, unless the buyer presents a blanket ((~~resale certificate~~)) seller's permit;

(e) The date on which the ((~~certificate~~)) permit was provided to the seller;

(f) A statement that the items or services purchased either: (i) Are purchased for resale in the regular course of business; or (ii) are ((~~exempt from tax pursuant to statute~~)) otherwise purchased at wholesale;

(g) A statement that the buyer acknowledges that the buyer is solely responsible for purchasing within the categories specified on the ((~~certificate~~)) permit and that misuse of the resale ((~~or exemption~~)) privilege claimed on the ((~~certificate~~)) permit subjects the buyer to ((~~a penalty of fifty percent of the tax due~~)) revocation of the seller's permit, penalties as provided in RCW 82.32.290 and 82.32.291, in addition to the tax, interest, and any other penalties imposed by law;

(h) The name of the individual authorized to sign the ((~~certificate~~)) permit, printed in a legible fashion;

(i) The signature of the authorized individual; ((~~and~~))

(j) The name of the seller;

(k) The date the permit was issued, renewed, or reinstated by the department;

(l) The date that the permit expires;

(m) Instructions for renewing the permit; and

(n) A statement that the department is authorized to obtain information concerning the buyer's purchase of items or services under the permit from the seller to verify whether the buyer was authorized to purchase such items or services without payment of retail sales tax.

(((~~(5)~~))) (4) Subsection (((~~(4)~~))) (3)(h)((~~;~~)) and (i)((~~; and (j)~~))) of this section does not apply if the ((~~certificate~~)) permit is provided in a format other than paper. If the ((~~certificate~~)) permit is provided in a format other than paper, the name of the individual providing the ((~~certificate~~)) permit must be included in the ((~~certificate~~)) permit.

(5)(a) In lieu of a seller's permit issued by the department under section 201 or 202 of this act, a seller may accept from a buyer that is not required to be registered with the department under RCW 82.32.030 a properly completed:

(i) Uniform sales and use tax exemption certificate developed by the multistate tax commission; or

(ii) Uniform exemption certificate approved by the streamlined sales and use tax agreement governing board.

(b) A seller who accepts a properly completed exemption certificate as authorized in (a) of this subsection is relieved of the obligation to collect and remit retail sales tax.

(6) In lieu of a seller's permit issued by the department under section 201 or 202 of this act, a seller may accept from a buyer that is required to be registered with the department under RCW 82.32.030 a properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board as long as that certificate includes the seller's permit number issued by the department to the buyer.

(7) As used in this section, "seller's permit" means documentation issued by the department under section 201 or 202 of this act and provided by a buyer to a seller to substantiate a wholesale sale.

Sec. 206. RCW 82.08.050 and 2007 c 6 s 1202 are each amended to read as follows:

(1) The tax hereby imposed shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the tax payable in respect to each taxable sale in accordance with the schedule of collections adopted by the department pursuant to the provisions of RCW 82.08.060.

(2) The tax required by this chapter, to be collected by the seller, shall be deemed to be held in trust by the seller until paid to the department, and any seller who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(3) In case any seller fails to collect the tax herein imposed or, having collected the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of his or her own acts or the result of acts or conditions beyond his or her control, he or she shall, nevertheless, be personally liable to the state for the amount of the tax, unless the seller has taken from the buyer a ((~~resale certificate~~)) seller's permit or uniform exemption certificate authorized under RCW 82.04.470, a copy of a direct pay permit issued under RCW 82.32.087, a direct mail form under RCW 82.32.730(5), or other information required under the streamlined sales and use tax agreement, or information required under rules adopted by the department.

(4) Sellers shall not be relieved from personal liability for the amount of the tax unless they maintain proper records of exempt transactions and provide them to the department when requested.

(5) Sellers are not relieved from personal liability for the amount of tax if they fraudulently fail to collect the tax or if they solicit purchasers to participate in an unlawful claim of exemption.

(6) Sellers are not relieved from personal liability for the amount of tax if they accept an exemption certificate from a purchaser claiming an entity-based exemption if:

(a) The subject of the transaction sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the seller in Washington; and

(b) Washington provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not available in Washington. Graying out exemption reason types on a uniform form and posting it on the department's web site is a clear and affirmative indication that the grayed out exemptions are not available.

(7)(a) Sellers are relieved from personal liability for the amount of tax if they obtain a fully completed exemption certificate or capture the relevant data elements required under the streamlined sales and use tax agreement within ninety days, or a longer period as may be provided by rule by the department, subsequent to the date of sale.

(b) If the seller has not obtained an exemption certificate or all relevant data elements required under the streamlined sales and use tax agreement within the period allowed subsequent to the date of sale, the seller may, within one hundred twenty days, or a longer period as may be provided by rule by the department, subsequent to a request for substantiation by the department, either prove that the transaction was not subject to tax by other means or obtain a fully completed exemption certificate from the purchaser, taken in good faith.

(c) Sellers are relieved from personal liability for the amount of tax if they obtain a blanket exemption certificate for a purchaser with which the seller has a recurring business relationship. The department may not request from a seller renewal of blanket certificates or updates of exemption certificate information or data elements if there is a recurring business relationship between the buyer and seller. For purposes of this subsection (7)(c), a "recurring business relationship" means at least one sale transaction within a period of twelve consecutive months.

(8) The amount of tax, until paid by the buyer to the seller or to the department, shall constitute a debt from the buyer to the seller and any seller who fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter is guilty of a misdemeanor.

(9) The tax required by this chapter to be collected by the seller shall be stated separately from the selling price in any sales invoice or other instrument of sale. On all retail sales through vending machines, the tax need not be stated separately from the selling price or collected separately from the buyer. For purposes of determining the tax due from the buyer to the seller and from the seller to the department it shall be conclusively presumed that the selling price quoted in any price list, sales document, contract or other agreement between the parties does not include the tax imposed by this chapter, but if the seller advertises the price as including the tax or that the seller is paying the tax, the advertised price shall not be considered the selling price.

(10) Where a buyer has failed to pay to the seller the tax imposed by this chapter and the seller has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the buyer for collection of the tax, in which case a penalty of ten percent may be added to the amount of the tax for failure of the buyer to pay the same to the seller, regardless of when the tax may be collected by the department; and all of the provisions of chapter 82.32 RCW, including those relative to interest and penalties, shall apply in addition; and, for the sole purpose of applying the various provisions of chapter 82.32 RCW, the twenty-

fifth day of the month following the tax period in which the purchase was made shall be considered as the due date of the tax.

(11) Notwithstanding subsections (1) through (10) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if:

(a) The person's activities in this state, whether conducted directly or through another person, are limited to:

(i) The storage, dissemination, or display of advertising;

(ii) The taking of orders; or

(iii) The processing of payments; and

(b) The activities are conducted electronically via a web site on a server or other computer equipment located in Washington that is not owned or operated by the person making sales into this state nor owned or operated by an affiliated person. "Affiliated persons" has the same meaning as provided in RCW 82.04.424.

(12) Subsection (11) of this section expires when: (a) The United States congress grants individual states the authority to impose sales and use tax collection duties on remote sellers; or (b) it is determined by a court of competent jurisdiction, in a judgment not subject to review, that a state can impose sales and use tax collection duties on remote sellers.

(13) For purposes of this section, "seller" includes a certified service provider, as defined in RCW 82.32.020, acting as agent for the seller.

Sec. 207. RCW 82.08.130 and 1993 sp.s. c 25 s 702 are each amended to read as follows:

(1) If a buyer normally is engaged in both consuming and reselling certain types of articles of tangible personal property and is not able to determine at the time of purchase whether the particular property acquired will be consumed or resold, the buyer may use a ((~~resale certificate~~)) seller's permit or, if eligible, a uniform exemption certificate authorized under RCW 82.04.470 for the entire purchase if the buyer principally resells the articles according to the general nature of the buyer's business. The buyer shall account for the value of any articles purchased with a ((~~resale certificate~~)) seller's permit or uniform exemption certificate authorized under RCW 82.04.470 that are used by the buyer and remit the deferred sales tax on the articles to the department.

(2) A buyer who pays a tax on all purchases and subsequently resells an article or service at retail, without intervening use by the buyer, shall collect the tax from the purchaser as otherwise provided by law and is entitled to a deduction or credit on the buyer's tax return equal to, in the case of a deduction, the cost to the buyer of the property or service resold upon which retail sales tax has been paid, and in the case of a credit, the amount of state and local sales taxes paid with respect to the property or service resold. The deduction or credit is allowed only if the taxpayer keeps and preserves records that show the names of the persons from whom the articles or services were purchased, the date of the purchase, the type of articles or services, the amount of the purchase, and the tax that was paid.

(3) The department ((~~shall~~)) must provide by rule for the refund or credit of retail sales tax paid by a buyer for purchases that are later ((~~sold at wholesale~~)) resold without intervening use by the buyer or for purchases that would otherwise have met the definition of wholesale sale if the buyer had provided the seller with a seller's permit or uniform exemption certificate as authorized in RCW 82.04.470.

(4) Nothing in this section may be construed to authorize a deduction or credit in respect to the purchase of services if the services are not of a type that can be sold at wholesale under the definition of wholesale sale in RCW 82.04.060.

Sec. 208. RCW 82.14B.042 and 2002 c 341 s 10 are each amended to read as follows:

(1) The state enhanced 911 excise taxes imposed by this chapter must be paid by the subscriber to the local exchange company providing the switched access line or the radio communications service company providing the radio access line, and each local exchange company and each radio communications service company shall collect from the subscriber the full amount of the taxes payable. The state enhanced 911 excise taxes required by this chapter to be collected by the local exchange company or the radio communications service company are deemed to be held in trust by the local exchange company or the radio communications service company until paid to the department. Any local exchange company or radio communications service company that appropriates or converts the tax collected to its own use or to any use other than the payment of the tax to the extent that the money collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) If any local exchange company or radio communications service company fails to collect the state enhanced 911 excise tax or, after collecting the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of its own act or the result of acts or conditions beyond its control, the local exchange company or the radio communications service company is personally liable to the state for the amount of the tax, unless the local exchange company or the radio communications service company has taken from the buyer in good faith ((~~a properly executed resale certificate under RCW 82.14B.200~~)) documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber or is otherwise not liable for the state enhanced 911 tax.

(3) The amount of tax, until paid by the subscriber to the local exchange company, the radio communications service company, or to the department, constitutes a debt from the subscriber to the local exchange company or the radio communications service company. Any local exchange company or radio communications service company that fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any subscriber who refuses to pay any tax due under this chapter is guilty of a misdemeanor. The state enhanced 911 excise taxes required by this chapter to be collected by the local exchange company or the radio communications service company must be stated separately on the billing statement that is sent to the subscriber.

(4) If a subscriber has failed to pay to the local exchange company or the radio communications service company the state enhanced 911 excise taxes imposed by this chapter and the local exchange company or the radio communications service company has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the subscriber for collection of the tax, in which case a penalty of ten percent may be added to the amount of the tax for failure of the subscriber to pay the tax to the local exchange company or the radio communications service company, regardless of when the tax is collected by the department. Tax under this chapter is due as provided under RCW 82.14B.061.

Sec.209. RCW 82.14B.200 and 2002 c 341 s 12 are each amended to read as follows:

(1) Unless a local exchange company or a radio communications service company has taken from the buyer ((~~a resale certificate or equivalent document under RCW 82.04.470~~)) documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber or is otherwise not liable for the tax, the burden of proving that a sale of the use of a switched access line or radio access

line was not a sale to a subscriber or was not otherwise subject to the tax is upon the person who made the sale.

(2) If a local exchange company or a radio communications service company does not receive ((~~a resale certificate~~)) documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber or is otherwise not liable for the tax at the time of the sale, have ((~~a resale certificate~~)) such documentation on file at the time of the sale, or obtain ((~~a resale certificate~~)) such documentation from the buyer within a reasonable time after the sale, the local exchange company or the radio communications service company remains liable for the tax as provided in RCW 82.14B.042, unless the local exchange company or the radio communications service company can demonstrate facts and circumstances according to rules adopted by the department of revenue that show the sale was properly made without payment of the state enhanced 911 excise tax.

(3) The penalty imposed by RCW 82.32.291 may not be assessed on state enhanced 911 excise taxes due but not paid as a result of the improper use of ((~~a resale certificate~~)) documentation stating that the buyer is not a subscriber or is otherwise not liable for the state enhanced 911 tax. This subsection does not prohibit or restrict the application of other penalties authorized by law.

Sec.210. RCW 82.32.087 and 2001 c 188 s 2 are each amended to read as follows:

(1) The director may grant a direct pay permit to a taxpayer who demonstrates, to the satisfaction of the director, that the taxpayer meets the requirements of this section. The direct pay permit allows the taxpayer to accrue and remit directly to the department use tax on the acquisition of tangible personal property or sales tax on the sale of or charges made for labor and/or services, in accordance with all of the applicable provisions of this title. Any taxpayer that uses a direct pay permit shall remit state and local sales or use tax directly to the department. The agreement by the purchaser to remit tax directly to the department, rather than pay sales or use tax to the seller, relieves the seller of the obligation to collect sales or use tax and requires the buyer to pay use tax on the tangible personal property and sales tax on the sale of or charges made for labor and/or services.

(2)(a) A taxpayer may apply for a permit under this section if the taxpayer (i) is subject to mandatory use of electronic funds transfer under RCW 82.32.080; or (ii) makes purchases subject to the taxes imposed under chapter 82.08 or 82.12 RCW in excess of ten million dollars per calendar year.

(b) Application for a permit must be made in writing to the director in a form and manner prescribed by the department. A taxpayer who transacts business in two or more locations may submit one application to cover the multiple locations.

(c) The director shall review a direct pay permit application in a timely manner and shall notify the applicant, in writing, of the approval or denial of the application. The department shall approve or deny an application based on the applicant's ability to comply with local government use tax coding capabilities and responsibilities; requirements for vendor notification; recordkeeping obligations; electronic data capabilities; and tax reporting procedures. Additionally, an application may be denied if the director determines that denial would be in the best interest of collecting taxes due under this title. The department shall provide a direct pay permit to an approved applicant with the notice of approval. The direct pay permit shall clearly state that the holder is solely responsible for the accrual and payment of the tax imposed under chapters 82.08 and 82.12 RCW and that the seller is relieved of liability to collect tax imposed under chapters 82.08 and 82.12 RCW on all sales to the direct pay permit holder. The taxpayer may petition the director for reconsideration of a denial.

(d) A taxpayer who uses a direct pay permit must continue to maintain records that are necessary to a determination of the tax liability in accordance with this title. A direct pay permit is not transferable and the use of a direct pay permit may not be assigned to a third party.

(3) Taxes for which the direct pay permit is used are due and payable on the tax return for the reporting period in which the taxpayer (a) receives the tangible personal property purchased or in which the labor and/or services are performed or (b) receives an invoice for such property or such labor and/or services, whichever period is earlier.

(4) The holder of a direct pay permit shall furnish a copy of the direct pay permit to each vendor with whom the taxpayer has opted to use a direct pay permit. Sellers who make sales upon which the sales or use tax is not collected by reason of the provisions of this section, in addition to existing requirements under this title, shall maintain a copy of the direct pay permit and any such records or information as the department may specify.

(5) A direct pay permit is subject to revocation by the director at any time the department determines that the taxpayer has violated any provision of this section or that revocation would be in the best interests of collecting the taxes due under this title. The notice of revocation must be in writing and is effective either as of the end of the taxpayer's next normal reporting period or a date deemed appropriate by the director and identified in the revocation notice. The taxpayer may petition the director for reconsideration of a revocation and reinstatement of the permit.

(6) Any taxpayer who chooses to no longer use a direct pay permit or whose permit is revoked by the department, shall return the permit to the department and immediately make a good faith effort to notify all vendors to whom the permit was given, advising them that the permit is no longer valid.

(7) Except as provided in this subsection, the direct pay permit may be used for any purchase of tangible personal property and any retail sale under RCW 82.04.050. The direct pay permit may not be used for:

(a) Purchases of meals or beverages;

(b) Purchases of motor vehicles, trailers, boats, airplanes, and other property subject to requirements for title transactions by the department of licensing;

(c) Purchases for which a ((~~resale certificate~~)) seller's permit or uniform exemption certificate authorized under RCW 82.04.470 may be used;

(d) Purchases that meet the definitions of RCW 82.04.050 (2) (e) and (f), (3) (a) through (d), (f), and (g), and (5); or

(e) Other activities subject to tax under chapter 82.08 or 82.12 RCW that the department by rule designates, consistent with the purposes of this section, as activities for which a direct pay permit is not appropriate and may not be used.

Sec. 211. RCW 82.32.290 and 1985 c 414 s 2 are each amended to read as follows:

(1)(a) It shall be unlawful:

(i) For any person to engage in business without having obtained a certificate of registration as provided in this chapter;

(ii) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business without having obtained a certificate of registration as provided in this chapter;

(iii) For any person to tear down or remove any order or notice posted by the department;

(iv) For any person to aid or abet another in any attempt to evade the payment of any tax or any part thereof;

(v) For any purchaser to fraudulently sign or furnish to a seller a ((~~resale certificate~~)) seller's permit or uniform exemption certificate authorized under RCW 82.04.470 without intent to resell the property purchased; or

(vi) For any person to fail or refuse to permit the examination of any book, paper, account, record, or other data by the department or its duly authorized agent; or to fail or refuse to permit the inspection or appraisal of any property by the department or its duly authorized agent; or to refuse to offer testimony or produce any record as required.

(b) Any person violating any of the provisions of this subsection (1) shall be guilty of a gross misdemeanor in accordance with chapter 9A.20 RCW.

(2)(a) It shall be unlawful:

(i) For any person to engage in business after revocation of a certificate of registration;

(ii) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business after revocation of a certificate of registration; or

(iii) For any person to make any false or fraudulent return or false statement in any return, with intent to defraud the state or evade the payment of any tax or part thereof.

(b) Any person violating any of the provisions of this subsection (2) shall be guilty of a class C felony in accordance with chapter 9A.20 RCW.

(3) In addition to the foregoing penalties, any person who knowingly swears to or verifies any false or fraudulent return, or any return containing any false or fraudulent statement with the intent aforesaid, shall be guilty of the offense of perjury in the second degree; and any company for which a false return, or a return containing a false statement, as aforesaid, is made, shall be punished, upon conviction thereof, by a fine of not more than one thousand dollars. All penalties or punishments provided in this section shall be in addition to all other penalties provided by law.

Sec. 212. RCW 82.32.291 and 1993 sp.s. c 25 s 703 are each amended to read as follows:

Any person who uses a ((~~resale certificate~~)) seller's permit to purchase items or services without payment of sales tax, or who uses a uniform exemption certificate developed by the multistate tax commission or approved by the streamlined sales and use tax agreement governing board to claim a purchase for resale exemption, and who is not entitled to use the seller's permit or exemption certificate for the purchase shall be assessed a penalty of fifty percent of the tax due, in addition to all other taxes, penalties, and interest due, on the improperly purchased item or service. The department may waive the penalty imposed under this section if it finds that the use of the seller's permit or exemption certificate was due to circumstances beyond the taxpayer's control or if the seller's permit or exemption certificate was properly used for purchases for dual purposes. The department shall define by rule what circumstances are considered to be beyond the taxpayer's control.

Sec. 213. RCW 82.32.330 and 2008 c 81 s 11 are each amended to read as follows:

(1) For purposes of this section:

(a) "Disclose" means to make known to any person in any manner whatever a return or tax information;

(b) "Return" means a tax or information return or claim for refund required by, or provided for or permitted under, the laws of this state which is filed with the department of revenue by, on behalf of, or with respect to a person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return so filed;

(c) "Tax information" means (i) a taxpayer's identity, (ii) the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability deficiencies, overassessments, or tax payments, whether taken from the taxpayer's books and records or any other source, (iii) whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, (iv) a part of a written determination that is not designated as a precedent and disclosed pursuant to RCW 82.32.410, or a background file document relating to a written determination, and (v) other data received by, recorded by, prepared by, furnished to, or collected by the department of revenue with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of a person under the laws of this state for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense((~~: PROVIDED, That~~)). However, data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section. Except as provided by RCW 82.32.410, nothing in this chapter shall require any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material, or documents so as to permit its disclosure;

(d) "State agency" means every Washington state office, department, division, bureau, board, commission, or other state agency;

(e) "Taxpayer identity" means the taxpayer's name, address, telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer; and

(f) "Department" means the department of revenue or its officer, agent, employee, or representative.

(2) Returns and tax information ((~~shall be~~)) are confidential and privileged, and except as authorized by this section, neither the department of revenue nor any other person may disclose any return or tax information.

(3) This section does not prohibit the department of revenue from:

(a) Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding:

(i) In respect of any tax imposed under the laws of this state if the taxpayer or its officer or other person liable under Title 82 RCW is a party in the proceeding; or

(ii) In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding;

(b) Disclosing, subject to such requirements and conditions as the director ((~~shall~~)) prescribes by rules adopted pursuant to chapter 34.05 RCW, such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person((~~: PROVIDED, That~~)). However, tax information not received from the taxpayer ((~~shall~~)) must not be so disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other

government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;

(c) Disclosing the name of a taxpayer with a deficiency greater than five thousand dollars and against whom a warrant under RCW 82.32.210 has been either issued or filed and remains outstanding for a period of at least ten working days. The department ((~~shall~~)) is not ((~~be~~)) required to disclose any information under this subsection if a taxpayer: (i) Has been issued a tax assessment; (ii) has been issued a warrant that has not been filed; and (iii) has entered a deferred payment arrangement with the department of revenue and is making payments upon such deficiency that will fully satisfy the indebtedness within twelve months;

(d) Disclosing the name of a taxpayer with a deficiency greater than five thousand dollars and against whom a warrant under RCW 82.32.210 has been filed with a court of record and remains outstanding;

(e) Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;

(f) Disclosing such return or tax information, for official purposes only, to the governor or attorney general, or to any state agency, or to any committee or subcommittee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions;

(g) Permitting the department of revenue's records to be audited and examined by the proper state officer, his or her agents and employees;

(h) Disclosing any such return or tax information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecuting attorney who receives the return or tax information may disclose that return or tax information only for use in the investigation and a related court proceeding, or in the court proceeding for which the return or tax information originally was sought;

(i) Disclosing any such return or tax information to the proper officer of the internal revenue service of the United States, the Canadian government or provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of this state;

(j) Disclosing any such return or tax information to the Department of Justice, including the Bureau of Alcohol, Tobacco, Firearms and Explosives within the Department of Justice, the Department of Defense, the Immigration and Customs Enforcement and the Customs and Border Protection agencies of the United States Department of Homeland Security, the Coast Guard of the United States, and the United States Department of Transportation, or any authorized representative ((~~thereof~~)) of these federal agencies, for official purposes;

(k) Publishing or otherwise disclosing the text of a written determination designated by the director as a precedent pursuant to RCW 82.32.410;

(l) Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, business address, mailing address, revenue tax registration numbers, seller's permit numbers and the status of such permits, North American industry classification system or standard industrial classification code of a taxpayer, and the dates of opening and closing of business. This subsection ((~~shall~~)) must not be construed as giving authority to the department to give, sell, or provide access to any list of taxpayers for any commercial purpose;

(m) Disclosing such return or tax information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of chapter 42.56 RCW or is a document maintained by a court of record and is not otherwise prohibited from disclosure;

(n) Disclosing such return or tax information to the United States department of agriculture for the limited purpose of investigating food stamp fraud by retailers;

(o) Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the department for a filed tax warrant, judgment, or lien against the real property;

(p) Disclosing to a person against whom the department has asserted liability as a successor under RCW 82.32.140 return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded;

(q) Disclosing such return or tax information in the possession of the department relating to the administration or enforcement of the real estate excise tax imposed under chapter 82.45 RCW, including information regarding transactions exempt or otherwise not subject to tax; or

(r) Disclosing to local taxing jurisdictions the identity of sellers granted relief under RCW 82.32.430(5)(b)(i) and the period for which relief is granted.

(4)(a) The department may disclose return or taxpayer information to a person under investigation or during any court or administrative proceeding against a person under investigation as provided in this subsection (4). The disclosure must be in connection with the department's official duties relating to an audit, collection activity, or a civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of data, materials, or documents are parties to the return or tax information to be disclosed. The department may disclose return or tax information such as invoices, contracts, bills, statements, resale or exemption certificates, or checks. However, the department may not disclose general ledgers, sales or cash receipt journals, check registers, accounts receivable/payable ledgers, general journals, financial statements, expert's workpapers, income tax returns, state tax returns, tax return workpapers, or other similar data, materials, or documents.

(b) Before disclosure of any tax return or tax information under this subsection (4), the department ((~~shall~~)) must, through written correspondence, inform the person in possession of the data, materials, or documents to be disclosed. The correspondence ((~~shall~~)) must clearly identify the data, materials, or documents to be disclosed. The department may not disclose any tax return or tax information under this subsection (4) until the time period allowed in (c) of this subsection has expired or until the court has ruled on any challenge brought under (c) of this subsection.

(c) The person in possession of the data, materials, or documents to be disclosed by the department has twenty days from the receipt of the written request required under (b) of this subsection to petition the superior court of the county in which the petitioner resides for injunctive relief. The court shall limit or deny the request of the department if the court determines that:

(i) The data, materials, or documents sought for disclosure are cumulative or duplicative, or are obtainable from some other source that is more convenient, less burdensome, or less expensive;

(ii) The production of the data, materials, or documents sought would be unduly burdensome or expensive, taking into account the needs of the department, the amount in controversy, limitations on the petitioner's resources, and the importance of the issues at stake; or

(iii) The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.

(d) The department ((~~shall~~)) must reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.

(e) Requesting information under (b) of this subsection that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.

(5) Any person acquiring knowledge of any return or tax information in the course of his or her employment with the department of revenue and any person acquiring knowledge of any return or tax information as provided under subsection (3)(f), (g), (h), (i), (j), or (n) of this section, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the state, such person ((~~shall~~)) must forfeit such office or employment and ((~~shall be~~)) is incapable of holding any public office or employment in this state for a period of two years thereafter.

Sec. 214. RCW 82.72.040 and 2004 c 254 s 6 are each amended to read as follows:

(1) Telephone program excise taxes must be paid by the subscriber to the local exchange company providing the switched access line, and each local exchange company shall collect from the subscriber the full amount of the taxes payable. Telephone program excise taxes to be collected by the local exchange company are deemed to be held in trust by the local exchange company until paid to the department. Any local exchange company that appropriates or converts the tax collected to its own use or to any use other than the payment of the tax to the extent that the money collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) If any local exchange company fails to collect telephone program excise taxes or, after collecting the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of its own act or the result of acts or conditions beyond its control, the local exchange company is personally liable to the state for the amount of the tax, unless the local exchange company has taken from the buyer in good faith ((~~a properly executed resale certificate under RCW 82.72.070~~)) documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber or is otherwise not liable for telephone program excise taxes.

(3) The amount of tax, until paid by the subscriber to the local exchange company or to the department, constitutes a debt from the subscriber to the local exchange company. Any local exchange company that fails or refuses to collect telephone program excise taxes as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any subscriber who refuses to pay any telephone excise tax is guilty of a misdemeanor.

(4) If a subscriber has failed to pay to the local exchange company the telephone program excise taxes and the local exchange company has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the subscriber for collection of the tax, in which case a penalty of ten percent may be added to the amount of the tax for failure of the subscriber to pay the tax to the local exchange company, regardless of when the tax is collected by the department. Telephone program excise taxes are due as provided under RCW 82.72.050.

Sec. 215. RCW 82.72.070 and 2004 c 254 s 9 are each amended to read as follows:

(1) Unless a local exchange company has taken from the buyer ((~~a resale certificate or equivalent document under RCW 82.04.470~~)) documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber or is otherwise not liable for telephone program excise taxes, the burden of proving that a sale of the use of a switched access line was not a sale to a subscriber or was otherwise not subject to telephone program excise taxes is upon the person who made the sale.

(2) If a local exchange company does not receive ((~~a resale certificate~~)) documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber or is otherwise not liable for telephone program excise taxes at the time of the sale, have ((~~a resale certificate~~)) such documentation on file at the time of the sale, or obtain ((~~a resale certificate~~)) such documentation from the buyer within a reasonable time after the sale, the local exchange company remains liable for the telephone program excise taxes as provided in RCW 82.72.040, unless the local exchange company can demonstrate facts and circumstances according to rules adopted by the department that show the sale was properly made without payment of telephone program excise taxes.

(3) The penalty imposed by RCW 82.32.291 may not be assessed on telephone program excise taxes that are due but not paid as a result of the improper use of ((~~a resale certificate~~)) documentation stating that the buyer is not a subscriber or is otherwise not liable for telephone program excise taxes. This subsection does not prohibit or restrict the application of other penalties authorized by law.

PART III
TECHNICAL CHANGES

Sec. 301. RCW 82.04.050 and 2007 c 54 s 4 and 2007 c 6 s 1004 are each reenacted and amended to read as follows:

(1) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who presents a ((~~resale certificate under~~)) seller's permit or uniform exemption certificate in conformity with RCW 82.04.470 and who:

(a) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, but a purchase for the purpose of resale by a regional transit authority under RCW 81.112.300 is not a sale for resale; or

(b) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(c) Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly

through contact with an ingredient of a new article being produced for sale; or

(d) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(e) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), (c), (d), or (e) of this subsection following such use. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280 (2) and (7), 82.04.290, and 82.04.2908; or

(f) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

(2) The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of self-service laundry facilities, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

(b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

(c) The constructing, repairing, or improving of any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

(d) The cleaning, fumigating, razing, or moving of existing buildings or structures, but shall not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) Automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

(f) The furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it shall be presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;

(g) Persons taxable under (a), (b), (c), (d), (e), and (f) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection shall be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section shall be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" shall include the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(a) Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows, day trips for sightseeing purposes, and others, when provided to consumers;

(b) Abstract, title insurance, and escrow services;

(c) Credit bureau services;

(d) Automobile parking and storage garage services;

(e) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

(f) Service charges associated with tickets to professional sporting events; and

(g) The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services.

(4)(a) The term shall also include:

(i) The renting or leasing of tangible personal property to consumers; and

(ii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (4)(a)(ii), an operator must do more than maintain, inspect, or set up the tangible personal property.

(b) The term shall not include the renting or leasing of tangible personal property where the lease or rental is for the purpose of sublease or subrent.

(5) The term shall also include the providing of "competitive telephone service," "telecommunications service," or "ancillary services," as those terms are defined in RCW 82.04.065, to consumers.

(6) The term shall also include the sale of prewritten computer software other than a sale to a person who presents a ((~~resale certificate under~~)) seller's permit or uniform exemption certificate in conformity with RCW 82.04.470, regardless of the method of delivery to the end user, but shall not include custom software or the customization of prewritten computer software.

(7) The term shall also include the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection,

"extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. For purposes of this subsection, "sales price" has the same meaning as in RCW 82.08.010.

(8) The term shall not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

(9) The term shall also not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor shall it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to: (a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; and (c) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

(10) The term shall not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor shall the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor shall the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other byproducts of weapons production and nuclear research and development.

(11) The term shall not include the sale of or charge made for labor, services, or tangible personal property pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a regional transit authority is the recipient of the labor, services, or tangible personal property, and a transit agency, as defined in RCW 81.104.015, performs the labor or services.

PART IV
MISCELLANEOUS

NEW SECTION. Sec. 401. 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. 402. This act must be liberally construed in order to carry out its purposes.

NEW SECTION. Sec. 403. This act takes effect January 1, 2010.

NEW SECTION. Sec. 404. The effective date in section 403 of this act may not be construed as preventing the department of revenue from accepting applications for, or issuing, sellers' permits before January 1, 2010, or taking any other action before January 1, 2010, necessary to ensure the effective implementation of this act.

NEW SECTION. Sec. 405. Part headings used in this act are not any part of the law."

Representative Orcutt moved the adoption of amendment (894) to amendment (888):

On page 38, line 2 of the amendment, before "or taking" insert "adopting rules,"

Representatives Orcutt and Hunter spoke in favor of the adoption of the amendment to amendment (888).

Amendment (894) to amendment (888) was adopted.

Representative Hunter moved the adoption of amendment (893) to amendment (888):

On page 38, after line 3 of the amendment, insert the following:

"**NEW SECTION. Sec. 405.** By December 1, 2009, the finance committee of the house of representatives and the joint legislative task force on the underground economy in the Washington state construction industry, shall each prepare a report that reviews the issues and concerns that need to be addressed by the legislature as a result of the changes made in this act. The reports shall include any recommendations on potential modifications to the provisions of this act. The department of revenue shall provide necessary support and information."

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

Representatives Hunter and Condotta spoke in favor of the adoption of the amendment to amendment (888).

Amendment (893) to amendment (888) was adopted.

Amendment (888) as amended was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Hunter, Orcutt and Condotta spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Senate Bill No. 6173, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 6173, as amended by the House, and the bill passed the House by the following vote: Yeas, 86; Nays, 9; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Bailey, Blake, Campbell, Carlyle, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Klippert, Kretz, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Priest, Probst, Quall, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Short, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Chandler, Cox, Ericksen, Herrera, McCune, Pearson, Roach, Shea and Taylor.

Excused: Representatives Armstrong, Kirby and Kristiansen.

SENATE BILL NO. 6173, as amended by the House, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 19, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 5840 and asks the House for a Conference thereon, and the same is herewith transmitted

Thomas Hoemann, Secretary

There being no objection, the House granted the Senate's request for a Conference on SENATE BILL NO. 5840. The Speaker (Representative Moeller presiding) appointed Representatives McCoy, Kessler and Crouse as Conferees.

MESSAGE FROM THE SENATE

April 20, 2009

Mr. Speaker:

The Senate refuses to concur in the House amendments to SUBSTITUTE SENATE BILL NO. 5574 and asks the House to recede therefrom, and the same is herewith transmitted

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House insisted on its position on SUBSTITUTE SENATE BILL NO. 5574 and requests a Conference thereon. The Speaker (Representative Moeller presiding) appointed Representatives Clibborn, Eddy and Shea as conferees.

There being no objection, the House advanced to the eleventh order of business.

There being no objection, the House adjourned until 9:00 a.m., April 24, 2009, the 103rd Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk