

CERTIFICATION OF ENROLLMENT  
**SECOND SUBSTITUTE SENATE BILL 5459**

62nd Legislature  
2011 1st Special Session

Passed by the Senate May 25, 2011  
YEAS 32 NAYS 13

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**President of the Senate**

Passed by the House May 25, 2011  
YEAS 63 NAYS 33

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5459** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SECOND SUBSTITUTE SENATE BILL 5459**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2011 1st Special Session

**State of Washington                      62nd Legislature                      2011 1st Special Session**

**By** Senate Ways & Means (originally sponsored by Senators Kline, Keiser, Regala, and McAuliffe)

READ FIRST TIME 05/19/11.

1            AN ACT Relating to services for people with developmental  
2 disabilities; amending RCW 71A.10.020, 71A.20.010, 71A.20.020,  
3 71A.18.040, 71A.20.080, and 71A.20.170; adding new sections to chapter  
4 71A.20 RCW; adding a new section to chapter 70.02 RCW; creating new  
5 sections; providing an effective date; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7            NEW SECTION.    **Sec. 1.** The legislature finds that:

8            (1) A developmental disability is a natural part of human life and  
9 the presence of a developmental disability does not diminish a person's  
10 rights or the opportunity to participate in the life of the local  
11 community;

12            (2) The system of services for people with developmental  
13 disabilities should provide a balanced range of health, social, and  
14 supportive services at home or in other residential settings. The  
15 receipt of services should be coordinated so as to minimize  
16 administrative cost and service duplication, and eliminate  
17 unnecessarily complex system organization;

18            (3) The public interest would best be served by a broad array of

1 services that would support people with developmental disabilities at  
2 home or in the community, whenever practicable, and that promote  
3 individual autonomy, dignity, and choice;

4 (4) In Washington state, people living in residential habilitation  
5 centers and their families are satisfied with the services they  
6 receive, and deserve to continue receiving services that meet their  
7 needs if they choose to receive those services in a community setting;

8 (5) As other care options for people with developmental  
9 disabilities become more available, the relative need for residential  
10 habilitation center beds is likely to decline. The legislature  
11 recognizes, however, that residential habilitation centers will  
12 continue to be a critical part of the state's long-term care options;  
13 and that such services should promote individual dignity, autonomy, and  
14 a home-like environment; and

15 (6) In a time of fiscal restraint, the state should consider the  
16 needs of all persons with developmental disabilities and spend its  
17 limited resources in a manner that serves more people, while not  
18 compromising the care people require.

19 NEW SECTION. **Sec. 2.** It is the intent of the legislature that:

20 (1) Community-based residential services supporting people with  
21 developmental disabilities should be available in the most integrated  
22 setting appropriate to individual needs; and

23 (2) An extensive transition planning and placement process should  
24 be used to ensure that people moving from a residential habilitation  
25 center to a community setting have the services and supports needed to  
26 meet their assessed health and welfare needs.

27 **Sec. 3.** RCW 71A.10.020 and 2010 c 94 s 21 are each amended to read  
28 as follows:

29 As used in this title, the following terms have the meanings  
30 indicated unless the context clearly requires otherwise.

31 (1) "Community residential support services," or "community support  
32 services," and "in-home services" means one or more of the services  
33 listed in RCW 71A.12.040.

34 (2) "Crisis stabilization services" means services provided to  
35 persons with developmental disabilities who are experiencing behaviors

1 that jeopardize the safety and stability of their current living  
2 situation. Crisis stabilization services include:

3 (a) Temporary intensive services and supports, typically not to  
4 exceed sixty days, to prevent psychiatric hospitalization,  
5 institutional placement, or other out-of-home placement; and

6 (b) Services designed to stabilize the person and strengthen their  
7 current living situation so the person may continue to safely reside in  
8 the community during and beyond the crisis period.

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

11 ~~((+3))~~ (4) "Developmental disability" means a disability  
12 attributable to intellectual disability, cerebral palsy, epilepsy,  
13 autism, or another neurological or other condition of an individual  
14 found by the secretary to be closely related to an intellectual  
15 disability or to require treatment similar to that required for  
16 individuals with intellectual disabilities, which disability originates  
17 before the individual attains age eighteen, which has continued or can  
18 be expected to continue indefinitely, and which constitutes a  
19 substantial limitation to the individual. By January 1, 1989, the  
20 department shall promulgate rules which define neurological or other  
21 conditions in a way that is not limited to intelligence quotient scores  
22 as the sole determinant of these conditions, and notify the legislature  
23 of this action.

24 ~~((+4))~~ (5) "Eligible person" means a person who has been found by  
25 the secretary under RCW 71A.16.040 to be eligible for services.

26 ~~((+5))~~ (6) "Habilitative services" means those services provided  
27 by program personnel to assist persons in acquiring and maintaining  
28 life skills and to raise their levels of physical, mental, social, and  
29 vocational functioning. Habilitative services include education,  
30 training for employment, and therapy.

31 ~~((+6))~~ (7) "Legal representative" means a parent of a person who  
32 is under eighteen years of age, a person's legal guardian, a person's  
33 limited guardian when the subject matter is within the scope of the  
34 limited guardianship, a person's attorney-at-law, a person's  
35 attorney-in-fact, or any other person who is authorized by law to act  
36 for another person.

37 ~~((+7))~~ (8) "Notice" or "notification" of an action of the  
38 secretary means notice in compliance with RCW 71A.10.060.

1       ~~((+8))~~ (9) "Residential habilitation center" means a state-  
2 operated facility for persons with developmental disabilities governed  
3 by chapter 71A.20 RCW.

4       ~~((+9))~~ (10) "Respite services" means relief for families and other  
5 caregivers of people with disabilities, typically not to exceed ninety  
6 days, to include both in-home and out-of-home respite care on an hourly  
7 and daily basis, including twenty-four hour care for several  
8 consecutive days. Respite care workers provide supervision,  
9 companionship, and personal care services temporarily replacing those  
10 provided by the primary caregiver of the person with disabilities.  
11 Respite care may include other services needed by the client, including  
12 medical care which must be provided by a licensed health care  
13 practitioner.

14       (11) "Secretary" means the secretary of social and health services  
15 or the secretary's designee.

16       ~~((+10))~~ (12) "Service" or "services" means services provided by  
17 state or local government to carry out this title.

18       ~~((+11))~~ (13) "State-operated living alternative" means programs  
19 for community residential services which may include assistance with  
20 activities of daily living, behavioral, habilitative, interpersonal,  
21 protective, medical, nursing, and mobility supports to individuals who  
22 have been assessed by the department as meeting state and federal  
23 requirements for eligibility in home and community-based waiver  
24 programs for individuals with developmental disabilities. State-  
25 operated living alternatives are operated and staffed with state  
26 employees.

27       (14) "Supported living" means community residential services and  
28 housing which may include assistance with activities of daily living,  
29 behavioral, habilitative, interpersonal, protective, medical, nursing,  
30 and mobility supports provided to individuals with disabilities who  
31 have been assessed by the department as meeting state and federal  
32 requirements for eligibility in home and community-based waiver  
33 programs for individuals with developmental disabilities. Supported  
34 living services are provided under contracts with private agencies or  
35 with individuals who are not state employees.

36       (15) "Vacancy" means an opening at a residential habilitation  
37 center, which when filled, would not require the center to exceed its  
38 biennially budgeted capacity.

1       **Sec. 4.** RCW 71A.20.010 and 1988 c 176 s 701 are each amended to  
2 read as follows:

3       (1) This chapter covers the operation of residential habilitation  
4 centers. The selection of persons to be served at the centers is  
5 governed by chapters 71A.16 and 71A.18 RCW. The purposes of this  
6 chapter are: To provide for those ((children and adults)) persons who  
7 are exceptional in their needs for care, treatment, and education by  
8 reason of developmental disabilities, residential care designed to  
9 develop their individual capacities to their optimum; to provide for  
10 admittance, withdrawal and discharge from state residential  
11 habilitation centers upon application; and to insure a comprehensive  
12 program for the education, guidance, care, treatment, and  
13 rehabilitation of all persons admitted to residential habilitation  
14 centers.

15       (2) Effective no later than July 1, 2012, no person under the age  
16 of sixteen years may be admitted to receive services at a residential  
17 habilitation center. Effective no later than July 1, 2012, no person  
18 under the age of twenty-one years may be admitted to receive services  
19 at a residential center, unless there are no service options available  
20 in the community to appropriately meet the needs of the individual.  
21 Such admission is limited to the provision of short-term respite or  
22 crisis stabilization services.

23       **Sec. 5.** RCW 71A.20.020 and 1994 c 215 s 1 are each amended to read  
24 as follows:

25       (1) Except as provided in subsection (2) of this section, the  
26 following residential habilitation centers are permanently established  
27 to provide services to persons with developmental disabilities:  
28 Lakeland Village, located at Medical Lake, Spokane county; Rainier  
29 School, located at Buckley, Pierce county; Yakima Valley School,  
30 located at Selah, Yakima county; and Fircrest School, located at  
31 Seattle, King county(~~;~~ ~~and Frances Haddon Morgan Children's Center,~~  
32 ~~located at Bremerton, Kitsap county)).~~

33       (2) The Yakima Valley School, located at Selah, Yakima county,  
34 shall cease to operate as a residential habilitation center when the  
35 conditions in section 6(2)(b) are met.

1           NEW SECTION.   **Sec. 6.** A new section is added to chapter 71A.20 RCW  
2 to read as follows:

3           (1) By December 31, 2011, the department shall:

4           (a) Close Frances Haddon Morgan residential rehabilitation center  
5 and relocate current residents consistent with the requirements of  
6 section 7 of this act; and

7           (b) Establish at least two state operating living alternatives on  
8 the campus of the Frances Haddon Morgan center, if residents have  
9 chosen to receive care in such a setting and subject to federal  
10 requirements related to the receipt of federal medicaid matching funds.

11          (2)(a) Upon the effective date of this section, the department  
12 shall not permit any new admission to Yakima Valley School unless such  
13 admission is limited to the provision of short-term respite or crisis  
14 stabilization services. Except as provided in (b) of this subsection,  
15 no current permanent resident of Yakima Valley School shall be required  
16 or compelled to relocate to a different care setting as a result of  
17 this act.

18          (b) The Yakima Valley School shall continue to operate as a  
19 residential habilitation center until such time that the census of  
20 permanent residents has reached sixteen persons. As part of the  
21 closure plan, at least two cottages will be converted to state-operated  
22 living alternatives, subject to federal requirements related to the  
23 receipt of federal medicaid matching funds.

24          (3) To assure the successful implementation of subsections (1) and  
25 (2) of this section, the department, within available funds:

26          (a) Shall establish state-operated living alternatives to provide  
27 community residential services to residential habilitation center  
28 residents transitioning to the community under this act who prefer a  
29 state-operated living alternative. The department shall offer  
30 residential habilitation center employees opportunities to work in  
31 state-operated living alternatives as they are established;

32          (b) May use existing supported living program capacity in the  
33 community for former residential habilitation center residents who  
34 prefer and choose a supported living program;

35          (c) Shall continue to staff and operate at Yakima Valley School  
36 crisis stabilization beds and respite service beds at the existing bed  
37 capacity as of June 1, 2011, for individuals with developmental  
38 disabilities requiring such services;

1 (d) Shall establish up to eight state-staffed crisis stabilization  
2 beds and up to eight state-staffed respite beds based upon funding  
3 provided in the appropriations act and the geographic areas with the  
4 greatest need for those services; and

5 (e) Shall establish regional or mobile specialty services evenly  
6 distributed throughout the state, such as dental care, physical  
7 therapy, occupational therapy, and specialized nursing care, which can  
8 be made available to former residents of residential habilitation  
9 centers and, within available funds, other individuals with  
10 developmental disabilities residing in the community.

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 71A.20 RCW  
12 to read as follows:

13 The department:

14 (1) May, within sixty days of admission to a residential  
15 habilitation center, ensure that each resident's individual  
16 habilitation plan includes a plan for discharge to the community;

17 (2) Shall use a person-centered approach in developing the  
18 discharge plan to assess the resident's needs and identify services the  
19 resident requires to successfully transition to the community,  
20 including:

21 (a) Engaging families and guardians of residents by offering  
22 family-to-family mentoring provided by family members who themselves  
23 experienced moving a family member with developmental disabilities from  
24 an institution to the community. The department shall contract with  
25 the developmental disabilities council to provide mentoring services;

26 (b) Employees of the residential habilitation centers and the  
27 department providing transition planning for residents. To strengthen  
28 continuity of care for residents leaving residential habilitation  
29 centers, the department shall provide opportunities for residential  
30 habilitation center employees to obtain employment in state-operated  
31 living alternatives;

32 (c) Providing choice of community living options and providers,  
33 consistent with federal requirements, including offering to place, with  
34 the consent of the resident or his or her guardian, each resident of  
35 the residential habilitation center on the appropriate home and  
36 community-based waiver, as authorized under 42 U.S.C. Sec. 1396n, and



1 provide continued access to the services that meet his or her assessed  
2 needs;

3 (d) Providing residents and their families or guardians  
4 opportunities to visit state-operated living alternatives and supported  
5 living options in the community;

6 (e) Offering residents leaving a residential habilitation center a  
7 "right to return" to a residential habilitation center during the first  
8 year following their move;

9 (f) Addressing services in addition to those that will be provided  
10 by residential services providers that are necessary to address the  
11 resident's assessed needs, including:

12 (i) Medical services;

13 (ii) Nursing services;

14 (iii) Dental care;

15 (iv) Behavioral and mental health supports;

16 (v) Habilitation services;

17 (vi) Employment or other day support; and

18 (vii) Transportation or other supports needed to assist family and  
19 friends in maintaining regular contact with the resident;

20 (3) Shall assure that, prior to discharge from a residential  
21 habilitation center, clients continue to be eligible for services for  
22 which they have an assessed need;

23 (4) Shall maximize federal funding for transitioning clients  
24 through the roads to community living grant;

25 (5) Shall limit the ability of a state-operated living alternative  
26 to reject clients;

27 (6) Shall use any savings achieved through efficiencies to extend  
28 services, including state-staffed crisis stabilization and respite  
29 services, to people with developmental disabilities currently receiving  
30 limited or no services; and

31 (7)(a) Shall employ the quality assurance process currently in use  
32 by the department to monitor the adjustment of each resident who leaves  
33 a residential habilitation center; and

34 (b) Convene a work group to review findings from the quality  
35 assurance for people moving process and provide feedback on the  
36 transition process. The work group shall include representatives of  
37 the developmental disabilities council, disability rights Washington,

1 University of Washington center for human development and disability,  
2 providers, and families and advocates of persons with disabilities.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.02 RCW  
4 to read as follows:

5 (1) A developmental disability service system task force is  
6 established.

7 (2) The task force shall be convened by September 1, 2011, and  
8 consist of the following members:

9 (a) Two members of the house of representatives appointed by the  
10 speaker of the house of representatives, from different political  
11 caucuses;

12 (b) Two members of the senate appointed by the president of the  
13 senate, from different political caucuses;

14 (c) The following members appointed by the governor:

15 (i) Two advocates for people with developmental disabilities;

16 (ii) A representative from the developmental disabilities council;

17 (iii) A representative of families of residents in residential  
18 habilitation centers;

19 (iv) Two representatives of labor unions representing workers who  
20 serve residents in residential habilitation centers;

21 (d) The secretary of the department of social and health services  
22 or their designee; and

23 (e) The secretary of the department of general administration or  
24 their designee.

25 (3) The members of the task force shall select the chair or  
26 cochairs of the task force.

27 (4) Staff assistance for the task force will be provided by  
28 legislative staff and staff from the agencies listed in subsection (2)  
29 of this section.

30 (5) The task force shall make recommendations on:

31 (a) The development of a system of services for persons with  
32 developmental disabilities that is consistent with the goals  
33 articulated in section 1 of this act;

34 (b) The state's long-term needs for residential habilitation center  
35 capacity, including the benefits and disadvantages of maintaining one  
36 center in eastern Washington and one center in western Washington;

1 (c) A plan for efficient consolidation of institutional capacity,  
2 including whether one or more centers should be downsized or closed  
3 and, if so, a time frame for closure;

4 (d) Mechanisms through which any savings that result from the  
5 downsizing, consolidation, or closure of residential habilitation  
6 center capacity can be used to create additional community-based  
7 capacity;

8 (e) Strategies for the use of surplus property that results from  
9 the closure of one or more centers;

10 (f) Strategies for reframing the mission of Yakima Valley School  
11 consistent with this act that consider:

12 (i) The opportunity, where cost-effective, to provide medical  
13 services, including centers of excellence, to other clients served by  
14 the department; and

15 (ii) The creation of a treatment team consisting of crisis  
16 stabilization and short-term respite services personnel, with the long-  
17 term goal of expanding to include the provisions of specialty services  
18 such as dental care, physical therapy, occupational therapy, and  
19 specialized nursing care to individuals with developmental disabilities  
20 residing in the surrounding community.

21 (6) The task force shall report their recommendations to the  
22 appropriate committees of the legislature by December 1, 2012.

23 **Sec. 9.** RCW 71A.18.040 and 1989 c 175 s 142 are each amended to  
24 read as follows:

25 (1) A person who is receiving a service under this title or the  
26 person's legal representative may request the secretary to authorize a  
27 service that is available under this title in place of a service that  
28 the person is presently receiving.

29 (2) The secretary upon receiving a request for change of service  
30 shall consult in the manner provided in RCW 71A.10.070 and within  
31 ninety days shall determine whether the following criteria are met:

32 (a) The alternative plan proposes a less dependent program than the  
33 person is participating in under current service;

34 (b) The alternative service is appropriate under the goals and  
35 objectives of the person's individual service plan;

36 (c) The alternative service is not in violation of applicable state  
37 and federal law; and

1 (d) The service can reasonably be made available.

2 (3) If the requested alternative service meets all of the criteria  
3 of subsection (2) of this section, the service shall be authorized as  
4 soon as reasonable, but not later than one hundred twenty days after  
5 completion of the determination process, unless the secretary  
6 determines that:

7 (a) The alternative plan is more costly than the current plan;

8 (b) Current appropriations are not sufficient to implement the  
9 alternative service without reducing services to existing clients; or

10 (c) Providing alternative service would take precedence over other  
11 priorities for delivery of service.

12 (4) The secretary shall give notice as provided in RCW 71A.10.060  
13 of the grant of a request for a change of service. The secretary shall  
14 give notice as provided in RCW 71A.10.060 of denial of a request for  
15 change of service and of the right to an adjudicative proceeding.

16 (5)(a) When the secretary has changed service from a residential  
17 habilitation center to a setting other than a residential habilitation  
18 center, the secretary shall reauthorize service at the residential  
19 habilitation center if the secretary in reevaluating the needs of the  
20 person finds that the person needs service in a residential  
21 habilitation center.

22 (b) A person who has moved from a residential habilitation center  
23 that has closed to a community-based setting shall be offered a right  
24 to return to a residential habilitation center during the first year  
25 following their move to the community.

26 (6) If the secretary determines that current appropriations are  
27 sufficient to deliver additional services without reducing services to  
28 persons who are presently receiving services, the secretary is  
29 authorized to give persons notice under RCW 71A.10.060 that they may  
30 request the services as new services or as changes of services under  
31 this section.

32 **Sec. 10.** RCW 71A.20.080 and 1989 c 175 s 143 are each amended to  
33 read as follows:

34 (1) Whenever in the judgment of the secretary, the treatment and  
35 training of any resident of a residential habilitation center has  
36 progressed to the point that it is deemed advisable to return such  
37 resident to the community, the secretary may grant placement on such

1 terms and conditions as the secretary may deem advisable after  
2 consultation in the manner provided in RCW 71A.10.070. The secretary  
3 shall give written notice of the decision to return a resident to the  
4 community as provided in RCW 71A.10.060. The notice must include a  
5 statement advising the recipient of the right to an adjudicative  
6 proceeding under RCW 71A.10.050 and the time limits for filing an  
7 application for an adjudicative proceeding. The notice must also  
8 include a statement advising the recipient of the right to judicial  
9 review of an adverse adjudicative order as provided in chapter 34.05  
10 RCW.

11 (2) A placement decision shall not be implemented at any level  
12 during any period during which an appeal can be taken or while an  
13 appeal is pending and undecided, unless authorized by court order so  
14 long as the appeal is being diligently pursued.

15 ~~((The department of social and health services shall periodically  
16 evaluate at reasonable intervals the adjustment of the resident to the  
17 specific placement to determine whether the resident should be  
18 continued in the placement or returned to the institution or given a  
19 different placement.))~~

20 NEW SECTION. **Sec. 11.** A new section is added to chapter 71A.20  
21 RCW to read as follows:

22 Beginning November 1, 2012, and annually thereafter, the department  
23 shall submit information to the appropriate committees of the  
24 legislature regarding persons who have transitioned from residential  
25 habilitation centers to the community, for the first two years  
26 following each person's new placement, including:

- 27 (1) Progress toward meeting the requirements of this act;
- 28 (2) Client and guardian satisfaction with services;
- 29 (3) Stability of placement and provider turnover, including  
30 information on returns to a residential habilitation center under  
31 section 7(2)(e) of this act;
- 32 (4) Safety and health outcomes;
- 33 (5) Types of services received by clients transitioned to the  
34 community; and
- 35 (6) Continued accessibility of former residents to family.

1       **Sec. 12.** RCW 71A.20.170 and 2008 c 265 s 1 are each amended to  
2 read as follows:

3       (1) The developmental disabilities community trust account is  
4 created in the state treasury. All net proceeds from the use of excess  
5 property identified in the 2002 joint legislative audit and review  
6 committee capital study or other studies of the division of  
7 developmental disabilities residential habilitation centers (~~at~~  
8 ~~Lakeland Village, Yakima Valley school, Francis Haddon Morgan Center,~~  
9 ~~and Rainier school~~)) that would not impact current residential  
10 habilitation center operations must be deposited into the account.

11       (2) Proceeds may come from the lease of the land, conservation  
12 easements, sale of timber, or other activities short of sale of the  
13 property, except as permitted under section 7 of this act.

14       (3) "Excess property" includes that portion of the property at  
15 Rainier school previously under the cognizance and control of  
16 Washington State University for use as a dairy/forage research  
17 facility.

18       (4) Only investment income from the principal of the proceeds  
19 deposited into the trust account may be spent from the account. For  
20 purposes of this section, "investment income" includes lease payments,  
21 rent payments, or other periodic payments deposited into the trust  
22 account. For purposes of this section, "principal" is the actual  
23 excess land from which proceeds are assigned to the trust account.

24       (5) Moneys in the account may be spent only after appropriation.  
25 Expenditures from the account shall be used exclusively to provide  
26 family support and/or employment/day services to eligible persons with  
27 developmental disabilities who can be served by community-based  
28 developmental disability services. It is the intent of the legislature  
29 that the account should not be used to replace, supplant, or reduce  
30 existing appropriations.

31       (6) The account shall be known as the Dan Thompson memorial  
32 developmental disabilities community trust account.

33       NEW SECTION.   **Sec. 13.** If any provision of this act or its  
34 application to any person or circumstance is held invalid, the  
35 remainder of the act or the application of the provision to other  
36 persons or circumstances is not affected.

1        NEW SECTION.    **Sec. 14.**    If any part of this act is found to be in  
2 conflict with federal requirements that are a prescribed condition to  
3 the allocation of federal funds to the state, the conflicting part of  
4 this act is inoperative solely to the extent of the conflict and with  
5 respect to the agencies directly affected, and this finding does not  
6 affect the operation of the remainder of this act in its application to  
7 the agencies concerned. Rules adopted under this act must meet federal  
8 requirements that are a necessary condition to the receipt of federal  
9 funds by the state.

10        NEW SECTION.    **Sec. 15.**    Section 7 of this act is necessary for the  
11 immediate preservation of the public peace, health, or safety, or  
12 support of the state government and its existing public institutions,  
13 and takes effect June 30, 2011.

--- END ---