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SIXTY-FIRST LEGISLATURE - REGULAR SESSION

NINETY FIFTH DAY

House Chamber, Olympia, Thursday, April 16, 2009

The House was called to order at 8:00 a.m. by the Speaker (Representative McCoy presiding).

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

INTRODUCTION AND FIRST READING

HB 2353 by Representative Dickerson

AN ACT Relating to delaying the implementation of the family leave insurance program; amending RCW 49.86.150, 49.86.030, 49.86.190, and 49.86.210; and providing an expiration date.

Referred to Committee on Ways & Means.

HB 2354 by Representatives Chase and Hunt

AN ACT Relating to the taxation of intangible property to provide additional funding for public schools; amending RCW 28A.150.210, 84.36.070, and 84.36.110; adding a new chapter to Title 84 RCW; creating new sections; and providing for submission of this act to a vote of the people.

Referred to Committee on Finance.

HB 2355 by Representatives Simpson and Ericks

AN ACT Relating to clarifying the definition of gambling for the purpose of assisting in the regulation and control of gambling; and amending RCW 9.46.010 and 9.46.0237.

Referred to Committee on Commerce & Labor.

HB 2356 by Representative Haigh

AN ACT Relating to revising student achievement fund allocations; amending RCW 28A.505.220; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2357 by Representative Cody

AN ACT Relating to modifying nursing facility medicaid payments by clarifying legislative intent regarding the statewide weighted average, freezing case mix indices, and revising the use of the economic trends and conditions factor; amending RCW 74.46.431 and 74.46.485; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2358 by Representative Conway

AN ACT Relating to increasing liquor license fees limited to fees for beer and/or wine restaurants; taverns; snack bars; combined beer and wine retailers; grocery stores; beer and/or wine specialty shops; passenger trains, vessels, and airplanes; spirits, beer, and wine restaurants; spirits, beer, and wine private clubs; beer and wine private clubs; and public houses; amending RCW 66.24.320, 66.24.330, 66.24.350, 66.24.354, 66.24.360, 66.24.371, 66.24.395, 66.24.400, 66.24.450, 66.24.452, and 66.24.580; reenacting and amending RCW 66.24.420 and 66.24.425; adding a new section to chapter 66.08 RCW; and providing an expiration date.

Referred to Committee on Ways & Means.

HB 2359 by Representative Cody

AN ACT Relating to delaying the implementation date for peer mentoring for long-term care workers; and amending RCW 74.39A.330.

Referred to Committee on Ways & Means.

HB 2360 by Representative Darneille

AN ACT Relating to consolidation of administrative services for AIDS grants in the department of health; amending RCW 70.24.400; and providing an effective date.

Referred to Committee on Ways & Means.

HB 2361 by Representative Cody

AN ACT Relating to modifying state payments for in-home care by prohibiting payment for services provided by agency employees who are related to or live with the client; adding a new section to chapter 74.39A RCW; creating a new section; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2362 by Representative Kessler

AN ACT Relating to providing support for judicial branch agencies by imposing surcharges on court fees and requesting the supreme court to consider increases to attorney licensing fees; amending RCW 36.18.018; reenacting and amending RCW 36.18.020; adding a new section to chapter 43.79 RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2363 by Representative Linville

AN ACT Relating to temporary suspension of cost-of-living increases for educational employees; amending RCW 28A.400.205, 28B.50.465, and 28B.50.468; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2364 by Representative Linville

AN ACT Relating to revisions to health care programs to implement the 2009-2011 operating budget.

Referred to Committee on Ways & Means.

HB 2365 by Representative Linville

AN ACT Relating to revisions to general government programs to implement the 2009-2011 operating budget.

Referred to Committee on Ways & Means.

HB 2366 by Representative Linville

AN ACT Relating to revisions to human services programs to implement the 2009-2011 operating budget.

Referred to Committee on Ways & Means.

HB 2367 by Representative Linville

AN ACT Relating to revisions to higher education programs to implement the 2009-2011 operating budget.

Referred to Committee on Ways & Means.

HB 2368 by Representative Linville

AN ACT Relating to revisions to natural resources programs to implement the 2009-2011 operating budget.

Referred to Committee on Ways & Means.

HB 2369 by Representative Linville

AN ACT Relating to the actuarial funding of the state retirement systems.

Referred to Committee on Ways & Means.

HB 2370 by Representative Linville

AN ACT Relating to revisions to education programs to implement the 2009-2011 operating budget.

Referred to Committee on Ways & Means.

HB 2371 by Representatives Darneille and Kagi

AN ACT Relating to thirty days of positive incentive time for offenders who successfully complete evidence-based programming; amending RCW 9.94A.728 and 9.94A.728; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2372 by Representatives Hunt and Liias

AN ACT Relating to eliminating the oil spill advisory council; amending RCW 90.56.005 and 90.56.060; and repealing RCW 90.56.120 and 90.56.130.

Referred to Committee on Ways & Means.

HB 2373 by Representatives Morrell and Cody

AN ACT Relating to delaying the implementation of Initiative Measure No. 1029; and creating a new section.

Referred to Committee on Ways & Means.

HB 2374 by Representatives Klippert, Taylor, O'Brien, Kretz, Grant-Herriot, Haler, Shea and Pearson

AN ACT Relating to imposing a mandatory minimum sentence for rape in the third degree; amending RCW 9.94A.540; and prescribing penalties.

Referred to Committee on Public Safety & Emergency Preparedness.

HB 2375 by Representatives Campbell, Morrell, Hunter, Ormsby, Pedersen, Wood, Conway, Simpson and Chase

AN ACT Relating to requiring surgical patients to be tested for multidrug resistant organisms prior to being admitted to the hospital; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.71 RCW; and adding a new section to chapter 70.41 RCW.

Referred to Committee on Health Care & Wellness.

HB 2376 by Representative Pettigrew

AN ACT Relating to delaying the implementation of Initiative Measure No. 1029; and creating a new section.

Referred to Committee on Ways & Means.

HB 2377 by Representatives Pettigrew, Dickerson, Darneille, Williams and Hunt

AN ACT Relating to funding health care and the working families' tax rebate with a voter-approved temporary sales tax increase; amending RCW 82.08.020; reenacting and amending RCW 82.08.064 and 43.135.035; adding a new section to chapter 43.79 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating new sections; making appropriations; providing a contingent

effective date; providing expiration dates; and providing for submission of certain sections of this act to a vote of the people.

Thomas Hoemann, Secretary

April 15, 2009

Referred to Committee on Health & Human Services Appropriations.

Mr. Speaker:

HB 2378 by Representatives Haigh, Hunt and Conway

AN ACT Relating to changing the maximum levy percentage for school districts that have a levy approved by the voters prior to May 1, 2009; amending RCW 84.52.0531; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

The President has signed the following:

- SUBSTITUTE SENATE BILL NO. 5001,
- SENATE BILL NO. 5028,
- SENATE BILL NO. 5071,
- SENATE BILL NO. 5580,
- SENATE BILL NO. 5642,
- SENATE BILL NO. 5804,
- SUBSTITUTE SENATE BILL NO. 5881,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5901,
- SENATE BILL NO. 5909,
- SENATE BILL NO. 5976,
- SENATE JOINT MEMORIAL NO. 8001,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

HJM 4019 by Representatives DeBolt and Short

Requesting the implementation of NextGen capabilities to modernize and improve the nation's air transportation system.

Referred to Committee on Transportation.

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

ESSB 6108 by Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Holmquist and Kohl-Welles)

AN ACT Relating to allowing the state lottery commission to enter into an agreement to conduct an additional shared lottery game; and amending RCW 67.70.044 and 67.70.340.

Referred to Committee on Ways & Means.

REPORTS OF STANDING COMMITTEES

April 14, 2009

HB 2334 Prime Sponsor, Representative Dunshee: Creating jobs by funding construction of safety, health, and energy-saving improvements to public facilities. Reported by Committee on Capital Budget

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Dunshee, Chair; Ormsby, Vice Chair; Blake; Chase; Grant-Herriot; Jacks; Maxwell; Orwall and White.

MINORITY recommendation: Do not pass. Signed by Representatives Warnick, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Anderson; Hope; McCune and Smith.

Passed to Committee on Rules for second reading.

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

The House went at ease.

The House was called to order at 1:30 a.m. by the Speaker (Representative Morris presiding).

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

SPEAKER'S PRIVILEGE

The Speaker (Representative Morris presiding) introduced House intern Justin Kjolseth, Pacific Lutheran University, and asked the Chamber to acknowledge his hard work.

MESSAGES FROM THE SENATE

April 15, 2009

Mr. Speaker:

The Senate has passed:

- HOUSE BILL NO. 1199,
- HOUSE BILL NO. 1487,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1664,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1847,
- SECOND SUBSTITUTE HOUSE BILL NO. 1938,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1961,

and the same are herewith transmitted.

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.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Finance was before the body for the purpose of amendment. (For committee amendment, see Journal, Day 78, March 30, 2009.)

With the consent of the House, amendment (536) to the committee amendment was withdrawn.

Representative Hasegawa moved the adoption of amendment (698) to the committee amendment:

On page 2, beginning on line 6 of the amendment, strike all of subsection (b) and insert the following:

"(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."

Representative Hasegawa spoke in favor of the adoption of the amendment to the committee amendment.

Amendment (698) to the committee amendment was adopted.

Representative Hunter moved the adoption of amendment (713) to the committee amendment:

On page 4, line 34 of the amendment, strike "at the time of annexation" and insert "on the effective date of this act"

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

Amendment (713) to the committee amendment was adopted.

The committee amendment 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, Eddy, Nelson and Maxwell spoke in favor of the passage of the bill.

Representatives Orcutt, Taylor and Hinkle spoke against the passage of the bill.

The Speaker (Representative Morris 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, 56; Nays, 42; Absent, 0; Excused, 0.

Voting yea: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler,

Kirby, Lias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, White, Williams, Wood and Mr. Speaker.

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

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

SUBSTITUTE SENATE BILL NO. 5556, by Senate Committee on Transportation (originally sponsored by Senators Kilmer, Carrell and Kauffman)

Prohibiting the reduction of toll penalties for infractions detected through the use of a photo enforcement system. Revised for 1st Substitute: Concerning toll enforcement for infractions detected through the use of a photo enforcement system.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Transportation was not adopted. (For committee amendment, see Journal, Day 85, April 6, 2009.)

Representative Shea moved the adoption of amendment (687):

On page 3, line 34, after "taken" insert ", unless the toll has already been paid"

Representatives Clibborn and Shea spoke in favor of the adoption of the amendment.

Amendment (687) was adopted.

Representative Rolfes moved the adoption of amendment (697):

On page 4, after line 16, insert the following:
"NEW SECTION. Sec. 2. The department shall report to the transportation committees of the legislature by December 1, 2009 with recommendations regarding implementing a time period for the payment of tolls after crossing the Tacoma Narrows Bridge in which individuals without a transponder could pay the toll due prior to the issuance of an infraction."

Correct the title.

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

Amendment (697) 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 Clibborn and Shea 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 Substitute Senate Bill No. 5556, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5556, as amended by the House, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, 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, Kirby, 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.

SUBSTITUTE SENATE BILL NO. 5556, as amended by the House, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5760, by Senate Committee on Ways & Means (originally sponsored by Senators Fraser, Brandland, Zarelli, Shin, Kilmer and Kohl-Welles)

Regarding the University of Washington's and Washington State University's public works contracting procedures.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Capital Budget was before the body for the purpose of amendment. (For committee amendment, see Journal, Day 85, April 6, 2009.)

Representative Chase moved the adoption of amendment (613) to the committee amendment:

On page 1, at the beginning of line 1 of the amendment, insert the following:

"On page 1, line 12, after "process," strike "design-bid-build process,""

On page 1, after line 6 of the amendment, insert the following:
"On page 3, after line 4, insert the following:

(3) A contractor may appeal the university's determination that the contractor does not meet the qualifications criteria to bid on a project. Appeals must be made in writing and submitted to the board within seven days. The board shall resolve an appeal within forty-five days of receipt of the appeal and shall send a written determination of its decision to the party making the appeal.

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

On page 6, after line 17 of the amendment, insert the following:
"On page 3, line 24, after "process," strike "design-bid-build process,""

On page 6, after line 23 of the amendment, insert the following:
"On page 4, after line 36, insert the following:

(3) A contractor may appeal the university's determination that the contractor does not meet the qualifications criteria to bid on a project. Appeals must be made in writing and submitted to the board within seven days. The board shall resolve an appeal within forty-five days of receipt of the appeal and shall send a written determination of its decision to the party making the appeal.

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

Representatives Chase and Warnick spoke in favor of the adoption of the amendment to the committee amendment.

Amendment (613) to the committee amendment was adopted.

Representative Anderson moved the adoption of amendment (634) to the committee amendment:

On page 1, at the beginning of line 1 of the amendment, insert the following:

"On page 1, line 15, after "public notice and" strike all material through "subcontractors" on page 2, line 4, and insert "in accordance with requirements and procedures in Title 39 RCW"

On page 6, after line 17 of the amendment, insert the following:
"On page 3, line 27, after "public notice and" strike all material through "subcontractors" on page 3, line 35, and insert "in accordance with requirements and procedures in Title 39 RCW"

Representative Anderson spoke in favor of the adoption of the amendment to the committee amendment.

Representative Ormsby spoke against the adoption of the amendment to the committee amendment.

Amendment (634) to the committee amendment was not adopted.

Representative Anderson moved the adoption of amendment (635) to the committee amendment:

On page 1, at the beginning of line 1 of the amendment, insert the following:

"On page 2, line 5, after "cost" strike "of the" and insert "after June 1, 2009, of any"

On page 6, after line 17 of the amendment, insert the following:
"On page 3, line 36, after "cost" strike "of the" and insert "after June 1, 2009, of any"

Representative Anderson spoke in favor of the adoption of the amendment to the committee amendment.

Representative Ormsby spoke against the adoption of the amendment to the committee amendment.

Amendment (635) to the committee amendment was not adopted.

Representative Anderson moved the adoption of amendment (633) to the committee amendment:

On page 1, starting on line 4 of the amendment, strike all material through line 6

On page 1, after line 6 of the amendment, insert the following: "On page 2, beginning on line 16, strike all of subsection (2)

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

On page 6, starting on line 21 of the amendment, strike all material through line 23

On page 6, after line 23 of the amendment, insert the following: "On page 4, beginning on line 10, strike all of subsection (2)

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

Representative Anderson spoke in favor of the adoption of the amendment to the committee amendment.

Representative Ormsby spoke against the adoption of the amendment to the committee amendment.

Amendment (633) to the committee amendment was not adopted.

Representative Anderson moved the adoption of amendment (636) to the committee amendment:

On page 1, after line 6 of the amendment, insert the following: "On page 2, line 6, after "demolition," strike "or" and insert "and""

On page 6, after line 16 of the amendment, insert the following: "On page 2, line 6, after "demolition," strike "or" and insert "and""

Representative Anderson spoke in favor of the adoption of the amendment to the committee amendment.

Representative Ormsby spoke against the adoption of the amendment to the committee amendment.

Amendment (636) to the committee amendment was not adopted.

The committee amendment 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 Ormsby and Hasegawa spoke in favor of the passage of the bill.

Representative Anderson spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5760, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5760, as amended by the House, and the bill passed the House by the following vote: Yeas, 52; Nays, 46; Absent, 0; Excused, 0.

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

Voting nay: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Chandler, Clibborn, Condotta, Crouse, Dammeier, DeBolt, Ericksen, Finn, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Kelley, Klippert, Kretz, Kristiansen, Lias, McCune, Miloscia, Morris, O'Brien, Orcutt, Parker, Pearson, Priest, Roach, Rodne, Rolfes, Ross, Schmick, Seaquist, Shea, Short, Smith, Taylor, Walsh and Warnick.

SUBSTITUTE SENATE BILL NO. 5760, as amended by the House, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on SUBSTITUTE SENATE BILL NO. 5760.

REUVEN CARLYLE, 36th District

SECOND READING

SENATE BILL NO. 5354, by Senators Haugen and Ranker

Regarding public hospital capital facility areas.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Local Government & Housing was adopted. (For committee amendment, see Journal, Day 78, March 30, 2009.)

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, Orcutt and Bailey 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 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, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, 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, Kirby, 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.

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

SPEAKER'S PRIVILEGE

The Speaker (Representative Morris presiding) introduced House intern Tia Ostergren, Washington State University, Vancouver, and asked the Chamber to acknowledge her.

MESSAGE FROM THE SENATE

April 8, 2009

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1119 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. SHORT TITLE. This act may be known and cited as the uniform prudent management of institutional funds act.

NEW SECTION. Sec. 2. DEFINITIONS. In this chapter:

(1) "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose the achievement of which is beneficial to the community.

(2) "Endowment fund" means an institutional fund or part thereof that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis. "Endowment fund" does not include assets that an institution designates as an endowment fund for its own use.

(3) "Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution as an institutional fund.

(4) "Institution" means:

(a) A person, other than an individual, organized and operated exclusively for charitable purposes;

(b) A government or governmental subdivision, agency, or instrumentality, to the extent that it holds funds exclusively for a charitable purpose; or

(c) A trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

(5) "Institutional fund" means a fund held by an institution exclusively for charitable purposes. "Institutional fund" does not include:

(a) Program-related assets;

(b) A fund held for an institution by a trustee that is not an institution; or

(c) A fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund.

(6) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(7) "Program-related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

(8) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

NEW SECTION. Sec. 3. STANDARD OF CONDUCT IN MANAGING AND INVESTING INSTITUTIONAL FUND. (1) Subject to the intent of a donor expressed in a gift instrument, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.

(2) In addition to complying with the duty of loyalty imposed by law other than this chapter, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(3) In managing and investing an institutional fund, an institution:

(a) May incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the institution, and the skills available to the institution; and

(b) Shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

(4) An institution may pool two or more institutional funds for purposes of management and investment.

(5) Except as otherwise provided by a gift instrument, the following rules apply:

(a) In managing and investing an institutional fund, the following factors, if relevant, must be considered:

(i) General economic conditions;

(ii) The possible effect of inflation or deflation;

(iii) The expected tax consequences, if any, of investment decisions or strategies;

(iv) The role that each investment or course of action plays within the overall investment portfolio of the fund;

(v) The expected total return from income and the appreciation of investments;

(vi) Other resources of the institution;

(vii) The needs of the institution and the institutional fund to make distributions and to preserve capital; and

(viii) An asset's special relationship or special value, if any, to the charitable purposes of the institution.

(b) Management and investment decisions about an individual asset must be made not in isolation but rather in the context of the institutional fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the institutional fund and to the institution.

(c) Except as otherwise provided by law, an institution may invest in any kind of property or type of investment consistent with this section.

(d) An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that, because of special circumstances, the purposes of the fund are better served without diversification.

(e) Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio, in order to bring the institutional fund into compliance with the purposes, terms, and distribution requirements of the institution as necessary to meet other circumstances of the institution and the requirements of this chapter.

(f) A person that has special skills or expertise, or is selected in reliance upon the person's representation that the person has special skills or expertise, has a duty to use those skills or that expertise in managing and investing institutional funds.

NEW SECTION. Sec. 4. APPROPRIATION FOR EXPENDITURE OR ACCUMULATION OF ENDOWMENT FUND--RULES OF CONSTRUCTION. (1) Subject to the intent of a donor expressed in the gift instrument, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

- (a) The duration and preservation of the endowment fund;
- (b) The purposes of the institution and the endowment fund;
- (c) General economic conditions;
- (d) The possible effect of inflation or deflation;
- (e) The expected total return from income and the appreciation of investments;
- (f) Other resources of the institution; and
- (g) The investment policy of the institution.

(2) To limit the authority to appropriate for expenditure or accumulate under subsection (1) of this section, a gift instrument must specifically state the limitation.

(3) Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income," "interest," "dividends," or "rents, issues, or profits," or "to preserve the principal intact," or words of similar import:

(a) Create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and

(b) Do not otherwise limit the authority to appropriate for expenditure or accumulate under subsection (1) of this section.

NEW SECTION. Sec. 5. DELEGATION OF MANAGEMENT AND INVESTMENT FUNCTIONS. (1) Subject to any specific limitation set forth in a gift instrument or in law other than this chapter, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances. An institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, in:

(a) Selecting an agent;

(b) Establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund; and

(c) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

(2) In performing a delegated function, an agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.

(3) An institution that complies with subsection (1) of this section is not liable for the decisions or actions of an agent to which the function was delegated.

(4) By accepting delegation of a management or investment function from an institution that is subject to the laws of this state, an agent submits to the jurisdiction of the courts of this state in all proceedings arising from or related to the delegation or the performance of the delegated function.

(5) An institution may delegate management and investment functions to its committees, officers, or employees as authorized by law.

NEW SECTION. Sec. 6. RELEASE OR MODIFICATION OF RESTRICTIONS ON MANAGEMENT, INVESTMENT, OR PURPOSE. (1) If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

(2) The court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund, or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. The institution shall notify the attorney general of the application, and the attorney general must be given an opportunity to be heard. To the extent practicable, any modification must be made in accordance with the donor's probable intention.

(3) If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve, or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument. The institution shall notify the attorney general of the application, and the attorney general must be given an opportunity to be heard.

(4) If an institution determines that a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, impossible to achieve, or wasteful, the institution, sixty days after notification to the attorney general, may release or modify the restriction, in whole or part, if:

(a) The institutional fund subject to the restriction has a total value of less than seventy-five thousand dollars. On the first day of July of each year, beginning on July 1, 2011, the dollar limit provided in this subsection (4)(a) shall increase by an amount of two thousand five hundred dollars;

(b) More than twenty years have elapsed since the fund was established; and

(c) The institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.

NEW SECTION. Sec. 7. REVIEWING COMPLIANCE.

Compliance with this chapter is determined in light of the facts and circumstances existing at the time a decision is made or action is taken, and not by hindsight.

NEW SECTION. Sec. 8. APPLICATION TO EXISTING INSTITUTIONAL FUNDS. This chapter applies to institutional funds existing on or established after the effective date of this act. As applied to institutional funds existing on the effective date of this act, this chapter governs only decisions made or actions taken on or after the effective date of this act.

NEW SECTION. Sec. 9. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the electronic signatures in global and national commerce act (15 U.S.C. Sec. 7001 et seq.), but does not modify, limit, or supersede 15 U.S.C. Sec. 7001(a), or authorize electronic delivery of any of the notices described in 15 U.S.C. Sec. 7003(b).

NEW SECTION. Sec. 10. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. Sec. 11. CAPTIONS NOT LAW. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 12. Sections 1 through 11 of this act constitute a new chapter in Title 24 RCW.

NEW SECTION. Sec. 13. The following acts or parts of acts are each repealed:

1.1.1.1. RCW 24.44.010 (Definitions) and 1973 c 17 s 1;

1.1.1.2. RCW 24.44.020 (Appropriation of appreciation) and 1973 c 17 s 2;

1.1.1.3. RCW 24.44.030 (Investment authority) and 1973 c 17 s 3;

1.1.1.4. RCW 24.44.040 (Delegation of investment management) and 1973 c 17 s 4;

1.1.1.5. RCW 24.44.050 (Standard of conduct) and 1973 c 17 s 5;

1.1.1.6. RCW 24.44.060 (Release of restrictions on use or investments) and 1973 c 17 s 6;

1.1.1.7. RCW 24.44.070 (Uniformity of application and construction) and 1973 c 17 s 8;

1.1.1.8. RCW 24.44.080 (Short title) and 1973 c 17 s 9;

1.1.1.9. RCW 24.44.090 (Section headings) and 1973 c 17 s 10; and

1.1.1.10. RCW 24.44.900 (Severability--1973 c 17) and 1973 c 17 s 7.

NEW SECTION. Sec. 14. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 2 of the title, after "institutions;" strike the remainder of the title and insert "adding a new chapter to Title 24 RCW; repealing RCW 24.44.010, 24.44.020, 24.44.030, 24.44.040, 24.44.050, 24.44.060, 24.44.070, 24.44.080, 24.44.090, and 24.44.900; and declaring an emergency."

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. 1119 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 3, 2009

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1131 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.162.010 and 2007 c 232 s 2 are each amended to read as follows:

(1) The Washington state economic development commission is established (~~(to oversee the economic development strategies and policies of the department of community, trade, and economic development)~~) as an independent agency of the state to provide the governor and legislature with policy analysis, strategic planning, program evaluation, and monitoring of the state's economic development system.

(2)(a) The Washington state economic development commission shall consist of eleven voting members appointed by the governor as follows: Six representatives of the private sector, one representative of labor, one representative of port districts, one representative of four-year state public higher education, one representative for state community or technical colleges, and one representative of associate development organizations. The director of the department of community, trade, and economic development, the director of the workforce training and education coordinating board, the commissioner of the employment security department, and the chairs and ranking minority members of the standing committees of the house of representatives and the senate overseeing economic development policies shall serve as nonvoting ex officio members.

The chair of the commission shall be a voting member selected by the governor with the consent of the senate, and shall serve at the pleasure of the governor. In selecting the chair, the governor shall seek a person who understands the future economic needs of the state and nation and the role the state's economic development system has in meeting those needs.

(b) In making the appointments, the governor shall consult with organizations that have an interest in economic development, including, but not limited to, industry associations, labor organizations, minority business associations, economic development councils, chambers of commerce, port associations, tribes, and the chairs of the legislative committees with jurisdiction over economic development.

(c) The members shall be representative of the geographic regions of the state, including eastern and central Washington, as well as represent the ethnic diversity of the state. Private sector members shall represent existing and emerging industries, small businesses, women-owned businesses, and minority-owned businesses. Members of the commission shall serve statewide interests while preserving their diverse perspectives, and shall be recognized leaders in their fields with demonstrated experience in economic development or disciplines related to economic development.

(3) Members appointed by the governor shall serve at the pleasure of the governor for not more than two consecutive three-year terms, except that, as determined by the governor, the terms of four

of the appointees on the commission on the effective date of this section will expire in 2010, the terms of four of the appointees on the commission on the effective date of this section will expire in 2011, and the terms of three of the appointees on the commission on the effective date of this section will expire in 2012. Thereafter all terms shall be for three years. Vacancies shall be filled in the same manner as the original appointments.

(4) The commission may establish committees as it desires, and may invite nonmembers of the commission to serve as committee members.

(5) The executive director of the commission shall be appointed by the governor with the consent of the voting members of the commission. The salary of the executive director shall be set by the governor with the consent of the commission. The governor may dismiss the executive director only with the approval of a majority vote of the commission. The commission, by a majority vote, may dismiss the executive director with the approval of the governor.

(6) The commission may adopt rules for its own governance.

(7) Members are eligible to receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060.

(8) A majority of members currently appointed constitutes a quorum for the purpose of conducting business.

Sec. 2. RCW 43.162.020 and 2007 c 232 s 4 are each amended to read as follows:

(1) The Washington state economic development commission shall:

~~((+))~~ (a) Concentrate its major efforts on planning, coordination, evaluation, policy analysis, and recommending improvements to the state's economic development system using, but not limited to, the "Next Washington" plan and the global competitiveness council recommendations;

~~((+))~~ (b) Develop and maintain on a biennial basis a state comprehensive plan for economic development, including but not limited to goals, objectives, and priorities for the state economic development system; identify the elements local associate development organizations must include in their countywide economic development plans; and review the state system for consistency with the state comprehensive plan. In developing the state comprehensive plan for economic development, the commission shall use, but may not be limited to: Economic, labor market, and populations trend reports in office of financial management forecasts; the annual state economic climate report prepared by the economic climate council; joint office of financial management and employment security department labor force, industry employment, and occupational forecasts; the results of scientifically based outcome evaluations; the needs of industry associations, industry clusters, businesses, and employees as evidenced in formal surveys and other input;

~~((+))~~ (c) Establish and maintain an inventory of the programs of the state economic development system and related state programs; perform a biennial assessment of the ongoing and strategic economic development needs of the state; and assess the extent to which the economic development system and related programs represent a consistent, coordinated, efficient, and integrated approach to meet such needs; ~~(and~~

~~(+))~~ (d) Produce a biennial report to the governor and the legislature on progress by the commission in coordinating the state's economic development system and meeting the other obligations of this chapter, as well as include recommendations for any statutory changes necessary to enhance operational efficiencies or improve coordination;

(e) Consult, collaborate, and coordinate with other state agencies and local organizations when developing plans, inventories, and assessments so as to avoid duplication of effort; and

(f) Have the authority to accept gifts, grants, donations, sponsorships, or contributions from any federal, state, or local governmental agency or program or any private source and expend the same for any purpose consistent with the provisions of this chapter.

(2) The commission may delegate to the executive director any of the functions of this section.

(3) The executive director must present a fiscal report to the commission quarterly for its review and approval.

(4) To maintain its leadership and concentration on strategic planning, coordination, and assessment of the economic development system as a whole, the commission shall not take an administrative role in the delivery of services.

Sec. 3. 2007 c 232 s 6 (uncodified) is amended to read as follows:

~~((The commission must develop and update a state comprehensive plan for economic development and an initial inventory of economic development programs, as required under section 4 of this act, by June 30, 2008.~~

~~(2))~~ Using the information from ~~(the))~~ its initial inventory of economic development programs, public input, and such other information as it deems appropriate, the commission shall, by ~~((September 1, 2008))~~ November 1, 2009, provide a report with findings, analysis, and recommendations to the governor and the legislature on the appropriate state role in economic development and the appropriate administrative and regional structures for the provision of economic development services. The report shall address how best to organize the state system to ensure that the state's economic development efforts:

(a) Are organized around a clear central mission and aligned with the state's comprehensive plan for economic development;

(b) Are capable of providing focused and flexible responses to changing economic conditions;

(c) Generate greater local capacity to respond to local opportunities and needs;

(d) Face no administrative barriers to efficiency and effectiveness;

(e) Maximize results through partnerships and the use of intermediaries; and

(f) Provide increased accountability to the public, the executive branch, and the legislature.

~~((+))~~ (2) The report should address the potential value of creating or consolidating specific programs if doing so would be consistent with an agency's core mission, and the potential value of removing specific programs from an agency if the programs are not central to the agency's core mission.

Sec. 4. RCW 43.330.280 and 2007 c 227 s 2 are each amended to read as follows:

(1) The Washington state economic development commission shall, with the advice of an innovation partnership advisory group selected by the commission, have oversight responsibility for the implementation of the state's efforts to further innovation partnerships throughout the state. The commission shall:

(a) Provide information and advice to the department of community, trade, and economic development to assist in the implementation of the innovation partnership zone program, including criteria to be used in the selection of grant applicants for funding;

(b) Document clusters of companies throughout the state that have comparative competitive advantage or the potential for comparative competitive advantage, using the process and criteria for identifying strategic clusters developed by the working group specified in subsection (2) of this section;

(c) Conduct an annual innovation opportunity analysis to identify (i) the strongest current intellectual assets and research teams in the state focused on emerging technologies and their commercialization, and (ii) faculty and researchers that could increase their focus on commercialization of technology if provided the appropriate technical assistance and resources;

(d) Based on its findings and analysis, and in conjunction with the higher education coordinating board and research institutions:

(i) Develop a plan to be updated annually to build on existing, and develop new, intellectual assets and innovation research teams in the state in research areas where there is a high potential to commercialize technologies. The commission shall present the plan to the governor and legislature by December ~~((31, 2007))~~ 31st of each year. The higher education coordinating board shall be responsible for implementing the plan in conjunction with the publicly funded research institutions in the state. The plan shall address the following elements and such other elements as the commission deems important:

(A) Specific mechanisms to support, enhance, or develop innovation research teams and strengthen their research and commercialization capacity in areas identified as useful to strategic clusters and innovative firms in the state;

(B) Identification of the funding necessary for laboratory infrastructure needed to house innovation research teams;

(C) Specification of the most promising research areas meriting enhanced resources and recruitment of significant entrepreneurial researchers to join or lead innovation research teams;

(D) The most productive approaches to take in the recruitment, in the identified promising research areas, of a minimum of ~~((ten))~~ one significant entrepreneurial researcher ~~((s over the next ten years))~~ per year to join or lead innovation research teams;

(E) Steps to take in solicitation of private sector support for the recruitment of entrepreneurial researchers and the commercialization activity of innovation research teams; and

(F) Mechanisms for ensuring the location of innovation research teams in innovation partnership zones;

(ii) Provide direction for the development of comprehensive entrepreneurial assistance programs at research institutions. The programs may involve multidisciplinary students, faculty, entrepreneurial researchers, entrepreneurs, and investors in building business models and evolving business plans around innovative ideas. The programs may provide technical assistance and the support of an entrepreneur-in-residence to innovation research teams and offer entrepreneurial training to faculty, researchers, undergraduates, and graduate students. Curriculum leading to a certificate in entrepreneurship may also be offered;

(e) Develop performance measures to be used in evaluating the performance of innovation research teams, the implementation of the plan and programs under (d)(i) and (ii) of this subsection, and the performance of innovation partnership zone grant recipients, including but not limited to private investment measures, business initiation measures, job creation measures, and measures of innovation such as licensing of ideas in research institutions, patents, or other recognized measures of innovation. The performance measures developed shall be consistent with the economic development commission's comprehensive plan for economic development and its standards and metrics for program evaluation.

The commission shall report to the legislature and the governor by ~~((December 31, 2008))~~ September 30, 2009, on the measures developed; and

(f) Using the performance measures developed, perform a biennial assessment and report, the first of which shall be due December 31, 2012, on:

(i) Commercialization of technologies developed at state universities, found at other research institutions in the state, and facilitated with public assistance at existing companies;

(ii) Outcomes of the funding of innovation research teams and recruitment of significant entrepreneurial researchers;

(iii) Comparison with other states of Washington's outcomes from the innovation research teams and efforts to recruit significant entrepreneurial researchers; and

(iv) Outcomes of the grants for innovation partnership zones. The report shall include recommendations for modifications of chapter 227, Laws of 2007 and of state commercialization efforts that would enhance the state's economic competitiveness.

(2) The economic development commission and the workforce training and education coordinating board shall jointly convene a working group to:

(a) Specify the process and criteria for identification of substate geographic concentrations of firms or employment in an industry and the industry's customers, suppliers, supporting businesses, and institutions, which process will include the use of labor market information from the employment security department and local labor markets; and

(b) Establish criteria for identifying strategic clusters which are important to economic prosperity in the state, considering cluster size, growth rate, and wage levels among other factors.

NEW SECTION. Sec. 5. A new section is added to chapter 43.162 RCW to read as follows:

(1) The Washington state economic development commission fund is created in the state treasury. All receipts from gifts, grants, donations, sponsorships, or contributions under RCW 43.162.020 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the Washington state economic development commission only for purposes related to carrying out the mission, roles, and responsibilities of the commission.

(2) Whenever any money, from the federal government or from other sources, that was not anticipated in the budget approved by the legislature, has actually been received and is designated to be spent for a specific purpose, the executive director shall use the unanticipated receipts process as provided in RCW 43.79.270 to request authority to spend the money.

(3) The commission shall use the small agency client services within the office of financial management for accounting, budgeting, and payroll services.

(4) The commission is subject to audits by the state auditor as provided under chapter 43.09 RCW."

On page 1, line 2 of the title, after "commission;" strike the remainder of the title and insert "amending RCW 43.162.010, 43.162.020, and 43.330.280; amending 2007 c 232 s 6 (uncodified); and adding a new section to chapter 43.162 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House did not concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1131 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 8, 2009

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1170 with the following amendment:

Strike everything after the enacting clause and insert the following:

Sec. 1. RCW 26.09.004 and 2008 c 6 s 1003 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Temporary parenting plan" means a plan for parenting of the child pending final resolution of any action for dissolution of marriage or domestic partnership, declaration of invalidity, or legal separation which is incorporated in a temporary order.

(2) "Permanent parenting plan" means a plan for parenting the child, including allocation of parenting functions, which plan is incorporated in any final decree or decree of modification in an action for dissolution of marriage or domestic partnership, declaration of invalidity, or legal separation.

(3) "Parenting functions" means those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the child. Parenting functions include:

(a) Maintaining a loving, stable, consistent, and nurturing relationship with the child;

(b) Attending to the daily needs of the child, such as feeding, clothing, physical care and grooming, supervision, health care, and day care, and engaging in other activities which are appropriate to the developmental level of the child and that are within the social and economic circumstances of the particular family;

(c) Attending to adequate education for the child, including remedial or other education essential to the best interests of the child;

(d) Assisting the child in developing and maintaining appropriate interpersonal relationships;

(e) Exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and the family's social and economic circumstances; and

(f) Providing for the financial support of the child.

(4) "Military duties potentially impacting parenting functions" means those obligations imposed, voluntarily or involuntarily, on a parent serving in the armed forces that may interfere with that parent's abilities to perform his or her parenting functions under a temporary or permanent parenting plan. Military duties potentially impacting parenting functions include, but are not limited to:

(a) "Deployment," which means the temporary transfer of a service member serving in an active-duty status to another location in support of a military operation, to include any tour of duty classified by the member's branch of the armed forces as "remote" or "unaccompanied";

(b) "Activation" or "mobilization," which means the call-up of a national guard or reserve service member to extended active-duty status. For purposes of this definition, "mobilization" does not include national guard or reserve annual training, inactive duty days, or drill weekends; or

(c) "Temporary duty," which means the transfer of a service member from one military base or the service member's home to a

different location, usually another base, for a limited period of time to accomplish training or to assist in the performance of a noncombat mission.

Sec. 2. RCW 26.09.010 and 2008 c 6 s 1004 are each amended to read as follows:

(1) Except as otherwise specifically provided herein, the practice in civil action shall govern all proceedings under this chapter, except that trial by jury is dispensed with.

(2) A proceeding for dissolution of marriage or domestic partnership, legal separation or a declaration concerning the validity of a marriage or domestic partnership shall be entitled "In re the marriage of and" or "In re the domestic partnership of and" Such proceedings may be filed in the superior court of the county where the petitioner resides.

(3) In cases where there has been no prior proceeding in this state involving the marital or domestic partnership status of the parties or support obligations for a minor child, a separate parenting and support proceeding between the parents shall be entitled "In re the parenting and support of"

(4) The initial pleading in all proceedings under this chapter shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this chapter shall be denominated as provided in the civil rules for superior court.

(5) In this chapter, "decree" includes "judgment".

(6) A decree of dissolution, of legal separation, or a declaration concerning the validity of a marriage or domestic partnership shall not be awarded to one of the parties, but shall provide that it affects the status previously existing between the parties in the manner decreed.

(7) In order to provide a means by which to facilitate a fair, efficient, and swift process to resolve matters regarding custody and visitation when a parent serving in the armed forces receives temporary duty, deployment, activation, or mobilization orders from the military, the court shall, upon motion of such a parent:

(a) For good cause shown, hold an expedited hearing in custody and visitation matters instituted under this chapter when the military duties of the parent have a material effect on the parent's ability, or anticipated ability, to appear in person at a regularly scheduled hearing; and

(b) Upon reasonable advance notice to the affected parties and for good cause shown, allow the parent to present testimony and evidence by electronic means in custody and visitation matters instituted under this chapter when the military duties of the parent have a material effect on the parent's ability to appear in person at a regularly scheduled hearing. The phrase "electronic means" includes communication by telephone, video teleconference, or the internet.

Sec. 3. RCW 26.09.260 and 2000 c 21 s 19 are each amended to read as follows:

(1) Except as otherwise provided in subsections (4), (5), (6), (8), and (10) of this section, the court shall not modify a prior custody decree or a parenting plan unless it finds, upon the basis of facts that have arisen since the prior decree or plan or that were unknown to the court at the time of the prior decree or plan, that a substantial change has occurred in the circumstances of the child or the nonmoving party and that the modification is in the best interest of the child. The effect of a parent's military duties potentially impacting parenting functions shall not, by itself, be a substantial change of circumstances justifying a permanent modification of a prior decree or plan.

(2) In applying these standards, the court shall retain the residential schedule established by the decree or parenting plan unless:

(a) The parents agree to the modification;

(b) The child has been integrated into the family of the petitioner with the consent of the other parent in substantial deviation from the parenting plan;

(c) The child's present environment is detrimental to the child's physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; or

(d) The court has found the nonmoving parent in contempt of court at least twice within three years because the parent failed to comply with the residential time provisions in the court-ordered parenting plan, or the parent has been convicted of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070.

(3) A conviction of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070 shall constitute a substantial change of circumstances for the purposes of this section.

(4) The court may reduce or restrict contact between the child and the parent with whom the child does not reside a majority of the time if it finds that the reduction or restriction would serve and protect the best interests of the child using the criteria in RCW 26.09.191.

(5) The court may order adjustments to the residential aspects of a parenting plan upon a showing of a substantial change in circumstances of either parent or of the child, and without consideration of the factors set forth in subsection (2) of this section, if the proposed modification is only a minor modification in the residential schedule that does not change the residence the child is scheduled to reside in the majority of the time and:

(a) Does not exceed twenty-four full days in a calendar year; or

(b) Is based on a change of residence of the parent with whom the child does not reside the majority of the time or an involuntary change in work schedule by a parent which makes the residential schedule in the parenting plan impractical to follow; or

(c) Does not result in a schedule that exceeds ninety overnights per year in total, if the court finds that, at the time the petition for modification is filed, the decree of dissolution or parenting plan does not provide reasonable time with the parent with whom the child does not reside a majority of the time, and further, the court finds that it is in the best interests of the child to increase residential time with the parent in excess of the residential time period in (a) of this subsection. However, any motion under this subsection (5)(c) is subject to the factors established in subsection (2) of this section if the party bringing the petition has previously been granted a modification under this same subsection within twenty-four months of the current motion. Relief granted under this section shall not be the sole basis for adjusting or modifying child support.

(6) The court may order adjustments to the residential aspects of a parenting plan pursuant to a proceeding to permit or restrain a relocation of the child. The person objecting to the relocation of the child or the relocating person's proposed revised residential schedule may file a petition to modify the parenting plan, including a change of the residence in which the child resides the majority of the time, without a showing of adequate cause other than the proposed relocation itself. A hearing to determine adequate cause for modification shall not be required so long as the request for relocation of the child is being pursued. In making a determination of a modification pursuant to relocation of the child, the court shall first determine whether to permit or restrain the relocation of the

child using the procedures and standards provided in RCW 26.09.405 through 26.09.560. Following that determination, the court shall determine what modification pursuant to relocation should be made, if any, to the parenting plan or custody order or visitation order.

(7) A parent with whom the child does not reside a majority of the time and whose residential time with the child is subject to limitations pursuant to RCW 26.09.191 (2) or (3) may not seek expansion of residential time under subsection (5)(c) of this section unless that parent demonstrates a substantial change in circumstances specifically related to the basis for the limitation.

(8)(a) If a parent with whom the child does not reside a majority of the time voluntarily fails to exercise residential time for an extended period, that is, one year or longer, the court upon proper motion may make adjustments to the parenting plan in keeping with the best interests of the minor child.

(b) For the purposes of determining whether the parent has failed to exercise residential time for one year or longer, the court may not count any time periods during which the parent did not exercise residential time due to the effect of the parent's military duties potentially impacting parenting functions.

(9) A parent with whom the child does not reside a majority of the time who is required by the existing parenting plan to complete evaluations, treatment, parenting, or other classes may not seek expansion of residential time under subsection (5)(c) of this section unless that parent has fully complied with such requirements.

(10) The court may order adjustments to any of the nonresidential aspects of a parenting plan upon a showing of a substantial change of circumstances of either parent or of a child, and the adjustment is in the best interest of the child. Adjustments ordered under this section may be made without consideration of the factors set forth in subsection (2) of this section.

(11) If the parent with whom the child resides a majority of the time receives temporary duty, deployment, activation, or mobilization orders from the military that involve moving a substantial distance away from the parent's residence or otherwise would have a material effect on the parent's ability to exercise parenting functions and primary placement responsibilities, then:

(a) Any temporary custody order for the child during the parent's absence shall end no later than ten days after the returning parent provides notice to the temporary custodian, but shall not impair the discretion of the court to conduct an expedited or emergency hearing for resolution of the child's residential placement upon return of the parent and within ten days of the filing of a motion alleging an immediate danger of irreparable harm to the child. If a motion alleging immediate danger has not been filed, the motion for an order restoring the previous residential schedule shall be granted; and

(b) The temporary duty, activation, mobilization, or deployment and the temporary disruption to the child's schedule shall not be a factor in a determination of change of circumstances if a motion is filed to transfer residential placement from the parent who is a military service member.

(12) If a parent receives military temporary duty, deployment, activation, or mobilization orders that involve moving a substantial distance away from the military parent's residence or otherwise have a material effect on the military parent's ability to exercise residential time or visitation rights, at the request of the military parent, the court may delegate the military parent's residential time or visitation rights, or a portion thereof, to a child's family member, including a stepparent or another person other than a parent with a close and substantial relationship to the minor child for the duration of the military parent's absence, if delegating residential time or visitation rights is in the child's best interest. The court may not permit the

delegation of residential time or visitation rights to a person who would be subject to limitations on residential time under RCW 26.09.191. The parties shall attempt to resolve disputes regarding delegation of residential time or visitation rights through the dispute resolution process specified in their parenting plan, unless excused by the court for good cause shown. Such a court-ordered temporary delegation of a military parent's residential time or visitation rights does not create separate rights to residential time or visitation for a person other than a parent.

(13) If the court finds that a motion to modify a prior decree or parenting plan has been brought in bad faith, the court shall assess the attorney's fees and court costs of the nonmoving parent against the moving party."

On page 1, line 2 of the title, after "parent;" strike the remainder of the title and insert "and amending RCW 26.09.004, 26.09.010, and 26.09.260."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House did not concur in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1170 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 9, 2009

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1239 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.04.030 and 2005 c 290 s 1 and 2005 c 238 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through ~~((13.34.170))~~ 13.34.161;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is required in any such proceeding due to the juvenile's age(~~;- PROVIDED;~~

~~That~~). If such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters(~~(;- PROVIDED FURTHER, That~~). The jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or (e)(i) of this subsection(~~(;- PROVIDED FURTHER, That~~). Courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or

(v) The juvenile is sixteen or seventeen years old on the date the alleged offense is committed and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030;

(B) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: (I) One or more prior serious violent offenses; (II) two or more prior violent offenses; or (III) three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately;

(C) Robbery in the first degree, rape of a child in the first degree, or drive-by shooting, committed on or after July 1, 1997;

(D) Burglary in the first degree committed on or after July 1, 1997, and the juvenile has a criminal history consisting of one or more prior felony or misdemeanor offenses; or

(E) Any violent offense as defined in RCW 9.94A.030 committed on or after July 1, 1997, and the juvenile is alleged to have been armed with a firearm.

(I) In such a case the adult criminal court shall have exclusive original jurisdiction, except as provided in (e)(v)(E)(II) of this subsection.

(II) The juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of a lesser included offense that is not also an offense listed in (e)(v) of this subsection. The juvenile court shall enter an order extending juvenile court jurisdiction if the juvenile has turned eighteen years of age during the adult criminal court proceedings pursuant to RCW 13.40.300. However, once the case is returned to juvenile court, the court may hold a decline hearing pursuant to RCW 13.40.110 to determine whether to retain the case in juvenile court for the purpose of disposition or return the case to adult criminal court for sentencing.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(v) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction;

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042; and

(j) Relating to judicial determinations and permanency planning hearings involving developmentally disabled children who have been placed in out-of-home care pursuant to a voluntary placement agreement between the child's parent, guardian, or legal custodian and the department of social and health services.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) The juvenile court shall have concurrent original jurisdiction with the family court over child custody proceedings under chapter 26.10 RCW and parenting plans or residential schedules under chapters 26.09 and 26.26 RCW as provided for in RCW 13.34.155.

(4) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial, may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

Sec. 2. RCW 13.34.062 and 2007 c 413 s 4 and 2007 c 409 s 5 are each reenacted and amended to read as follows:

(1)(a) Whenever a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.050 or when child protective services is notified that a child has been taken into custody pursuant to RCW 26.44.050 or 26.44.056, child protective services shall make reasonable efforts to inform the parent, guardian, or legal custodian of the fact that the child has been taken into custody, the reasons why the child was taken into custody, and their legal rights under this title, including the right to a shelter care hearing, as soon as possible. Notice must be provided in an understandable manner and take into consideration the parent's, guardian's, or legal custodian's primary language, level of education, and cultural issues.

(b) In no event shall the notice required by this section be provided to the parent, guardian, or legal custodian more than twenty-four hours after the child has been taken into custody or twenty-four hours after child protective services has been notified that the child has been taken into custody.

(2)(a) The notice of custody and rights may be given by any means reasonably certain of notifying the parents including, but not limited to, written, telephone, or in person oral notification. If the initial notification is provided by a means other than writing, child protective services shall make reasonable efforts to also provide written notification.

(b) The written notice of custody and rights required by this section shall be in substantially the following form:

"NOTICE

Your child has been placed in temporary custody under the supervision of Child Protective Services (or other person or agency). You have important legal rights and you must take steps to protect your interests.

1. A court hearing will be held before a judge within 72 hours of the time your child is taken into custody excluding Saturdays,

Sundays, and holidays. You should call the court at (insert appropriate phone number here) for specific information about the date, time, and location of the court hearing.

2. You have the right to have a lawyer represent you at the hearing. Your right to representation continues after the shelter care hearing. You have the right to records the department intends to rely upon. A lawyer can look at the files in your case, talk to child protective services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure).

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

4. If your hearing occurs before a court commissioner, you have the right to have the decision of the court commissioner reviewed by a superior court judge. To obtain that review, you must, within ten days after the entry of the decision of the court commissioner, file with the court a motion for revision of the decision, as provided in RCW 2.24.050.

You should be present at any shelter care hearing. If you do not come, the judge will not hear what you have to say.

You may call the Child Protective Services' caseworker for more information about your child. The caseworker's name and telephone number are: (insert name and telephone number).

5. You have a right to a case conference to develop a written service agreement following the shelter care hearing. The service agreement may not conflict with the court's order of shelter care. You may request that a multidisciplinary team, family group conference, or prognostic staffing be convened for your child's case. You may participate in these processes with your counsel present.

6. If your child is placed in the custody of the department of social and health services or other supervising agency, immediately following the shelter care hearing, the court will enter an order granting the department or other supervising agency the right to inspect and copy all health, medical, mental health, and education records of the child, directing health care providers to release such information without your further consent, and granting the department or supervising agency or its designee the authority and responsibility, where applicable, to:

(1) Notify the child's school that the child is in out-of-home placement;

(2) Enroll the child in school;

(3) Request the school transfer records;

(4) Request and authorize evaluation of special needs;

(5) Attend parent or teacher conferences;

(6) Excuse absences;

(7) Grant permission for extracurricular activities;

(8) Authorize medications which need to be administered during school hours and sign for medical needs that arise during school hours; and

(9) Complete or update school emergency records.

7. A dependency petition begins a judicial process which, if the court finds your child dependent, could result in substantial restrictions including the entry or modification of a parenting plan or residential schedule, nonparental custody order or decree, guardianship order, or the permanent loss of your parental rights."

Upon receipt of the written notice, the parent, guardian, or legal custodian shall acknowledge such notice by signing a receipt prepared by child protective services. If the parent, guardian, or legal

custodian does not sign the receipt, the reason for lack of a signature shall be written on the receipt. The receipt shall be made a part of the court's file in the dependency action.

If after making reasonable efforts to provide notification, child protective services is unable to determine the whereabouts of the parents, guardian, or legal custodian, the notice shall be delivered or sent to the last known address of the parent, guardian, or legal custodian.

(3) If child protective services is not required to give notice under this section, the juvenile court counselor assigned to the matter shall make all reasonable efforts to advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in RCW 13.34.090.

(4) Reasonable efforts to advise and to give notice, as required in this section, shall include, at a minimum, investigation of the whereabouts of the parent, guardian, or legal custodian. If such reasonable efforts are not successful, or the parent, guardian, or legal custodian does not appear at the shelter care hearing, the petitioner shall testify at the hearing or state in a declaration:

(a) The efforts made to investigate the whereabouts of, and to advise, the parent, guardian, or legal custodian; and

(b) Whether actual advice of rights was made, to whom it was made, and how it was made, including the substance of any oral communication or copies of written materials used.

Sec. 3. RCW 13.34.155 and 2000 c 135 s 1 are each amended to read as follows:

(1) The court hearing the dependency petition may hear and determine issues related to chapter 26.10 RCW in a dependency proceeding as necessary to facilitate a permanency plan for the child or children as part of the dependency disposition order or a dependency review order or as otherwise necessary to implement a permanency plan of care for a child. The parents, guardians, or legal custodian of the child must agree, subject to court approval, to establish a permanent custody order. This agreed order may have the concurrence of the other parties to the dependency including the supervising agency, the guardian ad litem of the child, and the child if age twelve or older, and must also be in the best interests of the child. If the petitioner for a custody order under chapter 26.10 RCW is not a party to the dependency proceeding, he or she must agree on the record or by the filing of a declaration to the entry of a custody order. Once an order is entered under chapter 26.10 RCW, and the dependency petition dismissed, the department shall not continue to supervise the placement.

(2)(a) The court hearing the dependency petition may establish or modify a parenting plan under chapter 26.09 or 26.26 RCW as part of a disposition order or at a review hearing when doing so will implement a permanent plan of care for the child and result in dismissal of the dependency.

(b) Unless the whereabouts of one of the parents is unknown to either the department or the court, the parents must agree, subject to court approval, to establish the parenting plan or modify an existing parenting plan.

(c) Whenever the court is asked to establish or modify a parenting plan under this section, the court shall first determine whether the child's interests are represented consistent with the requirements of RCW 13.34.100. The dependency court must make a written finding that the parenting plan established or modified by the dependency court under this section is in the child's best interests.

(d) The dependency court may interview the child in chambers to ascertain the child's wishes as to the child's residential schedule in a proceeding for the entry or modification of a parenting plan under

this section. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to become part of the court record of the dependency case and the case under chapter 26.09 or 26.26 RCW.

(e) In the absence of agreement by a parent, guardian, or legal custodian of the child to allow the juvenile court to hear and determine issues related to the establishment or modification of a parenting plan under chapter 26.09 or 26.26 RCW, a party may move the court to transfer such issues to the family law department of the superior court for further resolution. The court may only grant the motion upon entry of a written finding that it is in the best interests of the child.

(f) In any parenting plan agreed to by the parents and entered or modified in juvenile court under this section, all issues pertaining to child support and the division of marital property shall be referred to or retained by the family law department of the superior court.

(3) Any court order determining issues under chapter 26.10 RCW is subject to modification upon the same showing and standards as a court order determining Title 26 RCW issues.

((3)) (4) Any order entered in the dependency court establishing or modifying a permanent legal custody order or parenting plan, or residential schedule under chapters 26.09, 26.10, and 26.26 RCW shall also be filed in the chapter 26.09, 26.10, and 26.26 RCW action by the moving or prevailing party. If the petitioning or moving party has been found indigent and appointed counsel at public expense in the dependency proceeding, no filing fees shall be imposed by the clerk. Once filed, any order, parenting plan, or residential schedule establishing or modifying permanent legal custody of a child shall survive dismissal of the dependency proceeding."

On page 1, line 2 of the title, after "proceedings;" strike the remainder of the title and insert "amending RCW 13.34.155; and reenacting and amending RCW 13.04.030 and 13.34.062."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House did not concur in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1239 and asked the Senate to recede therefrom.

MESSAGES FROM THE SENATE

April 16, 2009

Mr. Speaker:

The President has signed the following:

SUBSTITUTE HOUSE BILL NO. 1022,
HOUSE BILL NO. 1063,
HOUSE BILL NO. 1264,
SUBSTITUTE HOUSE BILL NO. 1397,
SUBSTITUTE HOUSE BILL NO. 1413,
SUBSTITUTE HOUSE BILL NO. 1419,
HOUSE BILL NO. 1426,
ENGROSSED HOUSE BILL NO. 1461,
HOUSE BILL NO. 1498,
SUBSTITUTE HOUSE BILL NO. 1505,
SECOND SUBSTITUTE HOUSE BILL NO. 1522,
SUBSTITUTE HOUSE BILL NO. 1532,
HOUSE BILL NO. 1578,
SUBSTITUTE HOUSE BILL NO. 1733,
SUBSTITUTE HOUSE BILL NO. 1984,
SUBSTITUTE HOUSE BILL NO. 2052,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2105,
HOUSE JOINT MEMORIAL NO. 4000,
HOUSE JOINT MEMORIAL NO. 4005,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 16, 2009

Mr. Speaker:

The President has signed SENATE BILL NO. 5599, and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SECOND READING

SUBSTITUTE SENATE BILL NO. 5410, by Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Oemig, Morton, McAuliffe, Tom and Eide)

Regarding the digital learning commons. Revised for 1st Substitute: Regarding online learning.

The bill was read the second time.

There being no objection, the committee amendment was not adopted. (For committee amendment, see Journal, Day 78, March 30, 2009.)

With the consent of the House, amendment (712) to the committee amendment was withdrawn.

Representative Maxwell moved the adoption of amendment (696):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that online learning provides tremendous opportunities for students to access curriculum, courses, and a unique learning environment that might not otherwise be available. The legislature supports and encourages online learning opportunities.

(2) However, the legislature also finds that there is a need to assure quality in online learning, both for the programs and the administration of those programs. The legislature is the steward of public funds that support students enrolled in online learning and must ensure an appropriate accountability system at the state level.

(3) Therefore, the legislature intends to take a first step in improving oversight and quality assurance of online learning programs, and intends to examine possible additional steps that may need to be taken to improve financial accountability.

(4) The first step in improving quality assurance is to:

(a) Provide objective information to students, parents, and educators regarding available online learning opportunities, including program and course content, how to register for programs and courses, teacher qualifications, student-to-teacher ratios, prior course completion rates, and other evaluative information;

(b) Create an approval process for multidistrict online providers;

(c) Enhance statewide equity of student access to high quality online learning opportunities; and

(d) Require school district boards of directors to develop policies and procedures for student access to online learning opportunities.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Multidistrict online provider" means:

(i) A private or nonprofit organization that enters into a contract with a school district to provide online courses or programs to K-12 students from more than one school district;

(ii) A private or nonprofit organization that enters into contracts with multiple school districts to provide online courses or programs to K-12 students from those districts; or

(iii) Except as provided in (b) of this subsection, a school district that provides online courses or programs to students who reside outside the geographic boundaries of the school district.

(b) "Multidistrict online provider" does not include a school district online learning program in which fewer than ten percent of the students enrolled in the program are from other districts under the interdistrict student transfer provisions of RCW 28A.225.225.

"Multidistrict online provider" also does not include regional online learning programs that are jointly developed and implemented by two or more school districts or an educational service district through an interdistrict cooperative program agreement that addresses, at minimum, how the districts share student full-time equivalency for state basic education funding purposes and how categorical education programs, including special education, are provided to eligible students.

(2)(a) "Online course" means a course that:

(i) Is delivered primarily electronically using the internet or other computer-based methods; and

(ii) Is taught by a teacher primarily from a remote location. Students enrolled in an online course may have access to the teacher synchronously, asynchronously, or both.

(b) "Online school program" means a school program that:

(i) Is delivered primarily electronically using the internet or other computer-based methods;

(ii) Is taught by a teacher primarily from a remote location. Students enrolled in an online program may have access to the teacher synchronously, asynchronously, or both;

(iii) Delivers a part-time or full-time sequential program; and

(iv) Has an online component of the program with online lessons and tools for student and data management.

(c) An online course or online school program may be delivered to students at school as part of the regularly scheduled school day. An online course or online school program also may be delivered to students, in whole or in part, independently from a regular classroom schedule, but such courses or programs must comply with RCW 28A.150.262 to qualify for state basic education funding.

NEW SECTION. Sec. 3. (1) The superintendent of public instruction, in collaboration with the state board of education, shall develop and implement approval criteria and a process for approving multidistrict online providers; a process for monitoring and if necessary rescinding the approval of courses or programs offered by an online course provider; and an appeals process. The criteria and processes shall be adopted by rule by December 1, 2009.

(2) When developing the approval criteria, the superintendent of public instruction shall require that providers offering online courses or programs have accreditation through the Northwest association of accredited schools or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning. In addition to other criteria, the approval criteria

shall include the degree of alignment with state academic standards and require that all teachers be certificated in accordance with Washington state law. When reviewing multidistrict online providers that offer high school courses, the superintendent of public instruction shall assure that the courses offered by the provider are eligible for high school credit. However, final decisions regarding the awarding of high school credit shall remain the responsibility of school districts.

(3) Initial approval of multidistrict online providers by the superintendent of public instruction shall be for four years. The superintendent of public instruction shall develop a process for the renewal of approvals and for rescinding approvals based on noncompliance with approval requirements. Any multidistrict online provider that was approved by the digital learning commons or accredited by the Northwest association of accredited schools before the effective date of this section, and that meets the teacher certification requirements of subsection (2) of this section, is exempt from the initial approval process under this section until August 31, 2011, but must comply with the process for renewal of approvals and must comply with approval requirements.

(4) The superintendent of public instruction shall make the first round of decisions regarding approval of multidistrict online providers by April 1, 2010. Thereafter, the superintendent of public instruction shall make annual approval decisions no later than November 1st of each year.

(5) The superintendent of public instruction shall establish an online learning advisory committee within existing resources that shall provide advice to the superintendent regarding the approval criteria, major components of the web site, the model school district policy, model agreements, and other related matters. The committee shall include a representative of each of the following groups: Private and public online providers, parents of online students, accreditation organizations, educational service districts, school principals, teachers, school administrators, school board members, institutions of higher education, and other individuals as determined by the superintendent. Members of the advisory committee shall be selected by the superintendent based on nominations from statewide organizations, shall serve three-year terms, and may be reappointed. The superintendent shall select the chair of the committee.

NEW SECTION. Sec. 4. The superintendent of public instruction shall create an office of online learning. In the initial establishment of the office, the superintendent shall hire staff who have been employed by the digital learning commons to the extent such hiring is in accordance with state law and to the extent funds are available. The office shall:

(1) Develop and maintain a web site that provides objective information for students, parents, and educators regarding online learning opportunities offered by multidistrict online providers that have been approved in accordance with section 3 of this act. The web site shall include information regarding the online course provider's overall instructional program, specific information regarding the content of individual online courses and online school programs, a direct link to each online course provider's web site, how to register for online learning programs and courses, teacher qualifications, student-to-teacher ratios, course completion rates, and other evaluative and comparative information. The web site shall also provide information regarding the process and criteria for approving multidistrict online providers. To the greatest extent possible, the superintendent shall use the framework of the course offering component of the web site developed by the digital learning commons;

(2) Develop model agreements with approved multidistrict online providers that address standard contract terms and conditions that may apply to contracts between a school district and the approved provider. The purpose of the agreements is to provide a template to assist individual school districts, at the discretion of the district, in contracting with multidistrict online providers to offer the multidistrict online provider's courses and programs to students in the district. The agreements may address billing, fees, responsibilities of online course providers and school districts, and other issues; and

(3) In collaboration with the educational service districts:

(a) Provide technical assistance and support to school district personnel through the educational technology centers in the development and implementation of online learning programs in their districts; and

(b) To the extent funds are available, provide online learning tools for students, teachers, administrators, and other educators.

NEW SECTION. Sec. 5. The superintendent of public instruction shall:

(1) Develop model policies and procedures, in consultation with the Washington state school directors' association, that may be used by school district boards of directors in the development of the school district policies and procedures required in section 6 of this act. The model policies and procedures shall be disseminated to school districts by February 1, 2010;

(2) By December 1, 2009, modify the standards for school districts to report course information to the office of the superintendent of public instruction under RCW 28A.300.500 and for purposes of the standardized transcript to designate if the course was an online course. Both the designation and the reporting standards shall be required beginning with the 2010-11 school year; and

(3) Beginning January 15, 2011, and annually thereafter, submit a report regarding online learning to the state board of education, the governor, and the legislature. The report shall cover the previous school year and include but not be limited to student demographics, course enrollment data, aggregated student course completion and passing rates, and activities and outcomes of course and provider approval reviews.

NEW SECTION. Sec. 6. (1) By August 31, 2010, all school district boards of directors shall develop policies and procedures regarding student access to online courses and online learning programs. The policies and procedures shall include but not be limited to: Student eligibility criteria; the types of online courses available to students through the school district; the methods districts will use to support student success, which may include a local advisor; when the school district will and will not pay course fees and other costs; the granting of high school credit; and a process for students and parents or guardians to formally acknowledge any course taken for which no credit is given. The policies and procedures shall take effect beginning with the 2010-11 school year. School districts shall submit their policies to the superintendent of public instruction by September 15, 2010. By December 1, 2010, the superintendent of public instruction shall summarize the school district policies regarding student access to online courses and submit a report to the legislature.

(2) School districts shall provide students with information regarding online courses that are available through the school district. The information shall include the types of information described in subsection (1) of this section.

(3) When developing local or regional online learning programs, school districts shall incorporate into the program design the approval criteria developed by the superintendent of public instruction under section 3 of this act.

NEW SECTION. Sec. 7. (1) Beginning with the 2011-12 school year, school districts may claim state basic education funding, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are:

(a) Offered by a multidistrict online provider approved under section 3 of this act by the superintendent of public instruction;

(b) Offered by a school district online learning program if the program serves students who reside within the geographic boundaries of the school district, including school district programs in which fewer than ten percent of the program's students reside outside the school district's geographic boundaries; or

(c) Offered by a regional online learning program where courses are jointly developed and offered by two or more school districts or an educational service district through an interdistrict cooperative program agreement.

(2) Criteria shall be established by the superintendent of public instruction to allow online courses that have not been approved by the superintendent of public instruction to be eligible for state funding if the course is in a subject matter in which no courses have been approved and, if it is a high school course, the course meets Washington high school graduation requirements.

NEW SECTION. 8. Nothing in this chapter is intended to diminish the rights of students to attend a nonresident school district in accordance with RCW 28A.225.220 through 28A.225.230 for the purposes of enrolling in online courses or programs.

Sec. 9. RCW 28A.150.262 and 2005 c 356 s 2 are each amended to read as follows:

Under RCW 28A.150.260, the superintendent of public instruction shall revise the definition of a full-time equivalent student to include students who receive instruction through ~~((digital programs. "Digital programs" means electronically delivered learning that occurs primarily away from the classroom))~~ alternative learning experience online programs. As used in this section, an "alternative learning experience online program" is a set of online courses or an online school program as defined in section 2 of this act that is delivered to students in whole or in part independently from a regular classroom schedule. The superintendent of public instruction has the authority to adopt rules to implement the revised definition beginning with the 2005-2007 biennium for school districts claiming state funding for the programs. The rules shall include but not be limited to the following:

(1) Defining a full-time equivalent student under RCW 28A.150.260 or part-time student under RCW 28A.150.350 based upon the district's estimated average weekly hours of learning activity as identified in the student's learning plan, as long as the student is found, through monthly evaluation, to be making satisfactory progress; the rules shall require districts providing programs under this section to nonresident students to establish procedures that address, at a minimum, the coordination of student counting for state funding so that no student is counted for more than one full-time equivalent in the aggregate;

(2) Requiring the board of directors of a school district offering, or contracting under RCW 28A.150.305 to offer, ~~((a digital))~~ an alternative learning experience online program to adopt and annually review written policies for each program and program provider and to receive an annual report on its digital alternative learning experience online programs from its staff;

(3) Requiring each school district offering or contracting to offer ~~((a digital))~~ an alternative learning experience online program to report annually to the superintendent of public instruction on the

types of programs and course offerings, and number of students participating;

(4) Requiring completion of a program self-evaluation;

(5) Requiring documentation of the district of the student's physical residence;

(6) Requiring that supervision, monitoring, assessment, and evaluation of the ~~((digital))~~ alternative learning experience online program be provided by certificated instructional staff;

(7) Requiring each school district offering courses or programs to identify the ratio of certificated instructional staff to full-time equivalent students enrolled in such courses or programs, and to include a description of their ratio as part of the reports required under subsections (2) and (3) of this section;

(8) Requiring reliable methods to verify a student is doing his or her own work; the methods may include proctored examinations or projects, including the use of web cams or other technologies. "Proctored" means directly monitored by an adult authorized by the school district;

(9) Requiring, for each student receiving instruction in ~~((a digital))~~ an alternative learning experience online program, a learning plan that includes a description of course objectives and information on the requirements a student must meet to successfully complete the program or courses. The rules shall allow course syllabi and other additional information to be used to meet the requirement for a learning plan;

(10) Requiring that the district assess the educational progress of enrolled students at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district. Part-time students shall also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW. The rules shall address how students who reside outside the geographic service area of the school district are to be assessed;

(11) Requiring that each student enrolled in the program have direct personal contact with certificated instructional staff at least weekly until the student completes the course objectives or the requirements in the learning plan. Direct personal contact is for the purposes of instruction, review of assignments, testing, evaluation of student progress, or other learning activities. Direct personal contact may include the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication;

(12) Requiring state-funded public schools or public school programs whose primary purpose is to provide ~~((digital))~~ alternative learning experience online learning programs to receive accreditation through the ~~((state accreditation program or through the regional accreditation program))~~ Northwest association of accredited schools or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning;

(13) Requiring state-funded public schools or public school programs whose primary purpose is to provide ~~((digital))~~ alternative learning experience online learning to provide information to students and parents on whether or not the courses or programs: Cover one or more of the school district's learning goals or of the state's essential academic learning requirements or whether they permit the student to meet one or more of the state's or district's graduation requirements; and

(14) Requiring that a school district that provides one or more (~~digital~~) alternative learning experience online courses to a student provide the parent or guardian of the student, prior to the student's enrollment, with a description of any difference between home-based education as described in chapter 28A.200 RCW and the enrollment option selected by the student. The parent or guardian shall sign documentation attesting to his or her understanding of the difference and the documentation shall be retained by the district and made available for audit.

NEW SECTION. Sec. 10. (1) The office of the superintendent of public instruction shall conduct a review of online courses and programs offered to students during the 2008-09 school year to create a baseline of information about part-time, full-time, and interdistrict student enrollment; how courses and programs are offered and overseen; contract terms and funding arrangements; the fiscal impact on school district levy bases and levy equalization from interdistrict student enrollment; student-to-teacher ratios; course and program completion and success rates; student retention and dropout rates; and how issues such as student assessment, special education, and teacher certification are addressed.

(2) The office of the superintendent of public instruction shall also assess the level of funding provided for online course and program enrollment relative to the basic education general allocation, particularly for alternative learning experience programs. The assessment shall include but not be limited to a comparison of staffing ratios and costs, nonemployee-related costs, and facility requirements; and an analysis of the appropriate share of per-student allocations between resident districts and serving districts given the requirements for monthly progress reviews and direct personal contact.

(3) The office of the superintendent of public instruction shall submit a report to the education and fiscal committees of the legislature by December 1, 2009.

NEW SECTION. Sec. 11. Sections 1 through 8 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. Sec. 12. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void."

Correct the title.

Representative Hunter moved the adoption of amendment (725) to amendment (696):

On page 3, at the beginning of line 36 of the striking amendment, strike "2011" and insert "2012"

On page 5, beginning on line 29 of the striking amendment, after "28A.300.500" strike "and for purposes of the standardized transcript"

On page 5, line 31, after "course." strike "Both the designation and the" and insert "The"

Representatives Hunter and Priest spoke in favor of the adoption of the amendment to amendment (696).

Amendment (725) to amendment (696) was adopted.

Amendment (696) 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 Maxwell, Priest, Grant-Herriot and Hunter 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 Substitute Senate Bill No. 5410, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5410, as amended by the House, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, 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, Kirby, 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.

SUBSTITUTE SENATE BILL NO. 5410, as amended by the House, having received the necessary constitutional majority, was declared passed.

SECOND SUBSTITUTE SENATE BILL NO. 5945, by Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Franklin and Kohl-Welles)

Creating the Washington health partnership plan.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Health & Human Services Appropriations was before the body for the purpose of amendment. (For committee amendment, see Journal, Day 82, April 3, 2009.)

Representative Hinkle moved the adoption of amendment (726) to the committee amendment:

On page 1, line 4 of the amendment, after "by" strike "President Obama" and insert "the president of the United States"

On page 1, line 8 of the amendment, after "efforts." insert "The legislature further finds that the recommendations of the 2007 blue ribbon commission on health care costs and access are consistent with these principles."

On page 1, line 12 of the amendment, after "Provide" strike "Americans" and insert "the people of Washington state with"

On page 1, line 13 of the amendment, after "physicians" insert ", including health plans offered through the private insurance market and public programs, for those who meet eligibility standards"

On page 1, line 19 of the amendment, after "costs" strike "American citizens and businesses" and insert "that the people of Washington state"

On page 2, line 16 of the amendment, after "productivity," strike "and"

On page 2, line 16 of the amendment, after "revenue" insert ", and defining the appropriate role of the private and public sectors in financing health care coverage in Washington state"

On page 3, beginning on line 7 of the amendment, after "in" strike "Substitute House Bill No. 1647 and"

On page 4, beginning on line 4 of the amendment, after "5891" and "and Second Substitute House Bill No. 2114"

On page 5, line 9 of the amendment, strike "and"

On page 5, line 11 of the amendment, after "purchasing" insert "; and"

(d) Reforms in the private health insurance market to provide individuals and employers with more affordable health insurance options"

Representatives Hinkle and Cody spoke in favor of the adoption of the amendment to the committee amendment.

Amendment (726) to the committee amendment was adopted.

Representative Herrera moved the adoption of amendment (605) to the committee amendment:

On page 7, after line 10 of the amendment insert the following:

"(3) The department shall not submit the waiver unless it will result in savings or be cost neutral to the state over the length of the waiver."

Renumber the remaining subsections consecutively and correct internal references accordingly.

Representatives Herrera and Ericksen spoke in favor of the adoption of the amendment to the committee amendment.

Representative Cody spoke against the adoption of the amendment to the committee amendment.

Amendment (605) to the committee amendment was not adopted.

Representative Cody moved the adoption of amendment (583) to the committee amendment:

On page 8, after line 2 of the amendment, insert the following:

NEW SECTION. Sec. 8. The following acts or parts of acts are each repealed:

(1) RCW 43.20A.560 (Development of options to expand health care options--Consideration of federal waivers and state plan amendments required) and 2007 c 259 s 23; and

(2) RCW 74.09.740 (Amendments to state plan--Federal approval required) and 2002 c 3 s 14."

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

Amendment (583) to the committee amendment was adopted.

Representative Ericksen moved the adoption of amendment (607) to the committee amendment:

Strike everything after the enacting clause and insert the following:

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

(a) In January 2007 the blue ribbon commission on health care costs and access issued its report, which included a recommendation to give individuals and families more choice in selecting private insurance plans that work for them. This recommendation specifically stated, "Washington needs a multipronged approach to tackle the challenges facing our uninsured population. Over half of Washington's total uninsured population consists of young adults ages nineteen to thirty- four. In addition, fifty thousand are employees of small businesses who have incomes in excess of two hundred percent of the federal poverty level. Providing these and other individuals affordable insurance options on the private market will go a long way in decreasing the number of uninsured in the state."

(b) In the 2007 legislative session, Engrossed Second Substitute Senate Bill No. 5930 titled "an act relating to providing high quality, affordable health care to Washingtonians based on the recommendations of the blue ribbon commission on health care costs and access" was introduced and passed without any provisions related to the recommendation described in this section.

(c) State budget cuts to existing government health care programs such as the basic health plan, general assistance unemployable, and medicaid demonstrate the unsustainability of government health care programs and the need to reform the private health insurance market instead of expanding government health care programs which are intended to be safety net programs for our most vulnerable citizens.

(2) The legislature intends to:

(a) Implement the recommendation of the blue ribbon commission on health care costs and access, and implement a multipronged approach that provides more affordable health insurance options in the private health insurance market to decrease the number of uninsured in Washington; and

(b) Establish a Washington health partnership advisory group to review progress on the implementation of reforms to the private health insurance market and recommend any additional reforms needed to provide affordable health insurance options for all Washingtonians.

NEW SECTION. Sec. 2. A new section is added to chapter 48.06 RCW to read as follows:

(1) Beginning October 1, 2010, the governor shall convene annual meetings of a Washington health partnership advisory group. The advisory group must review progress on the implementation of this act to give individuals and employers more choice in selecting private insurance plans that work for them. The advisory group shall also provide input related to further actions that can be taken to reform the private health insurance market so that it has affordable health insurance options for all Washingtonians.

(2) The membership of the advisory group shall include:

(a) Two members of the house of representatives and two members of the senate, representing the majority and minority caucuses of each body;

(b) The insurance commissioner;

(c) The secretary of the department of social and health services, the administrator of the health care authority, and the director of the office of financial management;

(d) Members of the forum and the Puget Sound health alliance;

(e) Health insurance carriers who currently offer plans in Washington state, and out-of-state carriers interested in offering plans in Washington state; and

(f) Employer and consumer representatives.

Sec. 3. RCW 48.21.045 and 2008 c 143 s 6 are each amended to read as follows:

~~(1)((a))~~ An insurer offering any health benefit plan to a small employer, either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a health benefit plan featuring a limited schedule of covered health care services. ~~(Nothing in this subsection shall preclude an insurer from offering, or a small employer from purchasing, other health benefit plans that may have more comprehensive benefits than those included in the product offered under this subsection. An insurer offering a health benefit plan under this subsection shall clearly disclose all covered benefits to the small employer in a brochure filed with the commissioner.~~

~~(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142, 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200, 48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.244, 48.21.250, 48.21.300, 48.21.310, or 48.21.320.~~

~~(2))~~ (a) The plan offered under this subsection may be offered with a choice of cost-sharing arrangements, and may, but is not required to, comply with: RCW 48.21.130 through 48.21.241, 48.21.244 through 48.21.280, 48.21.300 through 48.21.320, 48.43.045(1) except as required in (b) of this subsection, 48.43.093, 48.43.115 through 48.43.185, 48.43.515(5), or 48.42.100.

(b) In offering the plan under this subsection, the insurer must offer the small employer the option of permitting every category of health care provider to provide health services or care for conditions covered by the plan pursuant to RCW 48.43.045(1).

(2) An insurer offering the plan under subsection (1) of this section must also offer and actively market to the small employer at least one additional health benefit plan.

(3) Nothing in this section shall prohibit an insurer from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the health benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

~~((3))~~ (4) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The insurer shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The insurer shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection ~~((3))~~ (4).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and

three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;
- (iii) Changes to the health benefit plan requested by the small employer; or
- (iv) Changes in government requirements affecting the health benefit plan.

(g) Rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs ~~((due to network provider reimbursement schedules or type of network))~~ for a plan. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Except for small group health benefit plans that qualify as insurance coverage combined with a health savings account as defined by the United States internal revenue service, adjusted community rates established under this section shall pool the medical experience of all small groups purchasing coverage, including the small group participants in the health insurance partnership established in RCW 70.47A.030. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool ~~((such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal.))~~ if certified by a member of the American academy of actuaries, that: (i) The variation is a result of deductible leverage, benefit design, claims cost trend for the plan, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than eight percentage points are subject to review by the commissioner, and must be approved or denied within thirty days of submittal. A variation that is not denied within ((sixty)) thirty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial ((within thirty days)) at the time of the denial.

(j) For health benefit plans purchased through the health insurance partnership established in chapter 70.47A RCW:

(i) Any surcharge established pursuant to RCW 70.47A.030(2)(e) shall be applied only to health benefit plans purchased through the health insurance partnership; and

(ii) Risk adjustment or reinsurance mechanisms may be used by the health insurance partnership program to redistribute funds to carriers participating in the health insurance partnership based on differences in risk attributable to individual choice of health plans or other factors unique to health insurance partnership participation. Use of such mechanisms shall be limited to the partnership program and will not affect small group health plans offered outside the partnership.

~~((4))~~ (5) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

~~((5))~~ (6)(a) Except as provided in this subsection, requirements used by an insurer in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) An insurer shall not require a minimum participation level greater than:

(i) One hundred percent of eligible employees working for groups with three or less employees; and

(ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) An insurer may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(e) Minimum participation requirements and employer premium contribution requirements adopted by the health insurance partnership board under RCW 70.47A.110 shall apply only to the employers and employees who purchase health benefit plans through the health insurance partnership.

~~((6))~~ (7) An insurer must offer coverage to all eligible employees of a small employer and their dependents. An insurer may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. An insurer may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

~~((7))~~ (8) As used in this section, "health benefit plan," "small employer," "adjusted community rate," and "wellness activities" mean the same as defined in RCW 48.43.005.

Sec. 4. RCW 48.44.023 and 2008 c 143 s 7 are each amended to read as follows:

(1)~~((a))~~ A health care services contractor offering any health benefit plan to a small employer, either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer ~~((a))~~ no more than one health benefit plan featuring a limited schedule of covered health care services. ~~((Nothing in this subsection shall preclude a contractor from offering, or a small employer from purchasing, other health benefit plans that may have more comprehensive benefits than those included in the product offered under this subsection. A contractor offering a health benefit plan under this subsection shall clearly disclose all covered benefits to the small employer in a brochure filed with the commissioner.~~

~~— (b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290, 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335, 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and 48.44.460.~~

~~— (2))~~ (a) The plan offered under this subsection may be offered with a choice of cost-sharing arrangements, and may, but is not required to, comply with: RCW 48.44.210, 48.44.212, 48.44.225, 48.44.240 through 48.44.245, 48.44.290 through 48.44.341, 48.44.344, 48.44.360 through 48.44.380, 48.44.400, 48.44.420, 48.44.440 through 48.44.460, 48.44.500, 48.43.045(1) except as required in (b) of this subsection, 48.43.093, 48.43.115 through 48.43.185, 48.43.515(5), or 48.42.100.

~~— (b) In offering the plan under this subsection, the health care service contractor must offer the small employer the option of permitting every category of health care provider to provide health services or care for conditions covered by the plan pursuant to RCW 48.43.045(1).~~

~~— (2) A health care service contractor offering the plan under subsection (1) of this section must also offer and actively market to the small employer at least one additional health benefit plan.~~

~~— (3) Nothing in this section shall prohibit a health care service contractor from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the health benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.~~

~~((3))~~ (4) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The contractor shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The contractor shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection ~~((3))~~ (4).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;

(iii) Changes to the health benefit plan requested by the small employer; or

(iv) Changes in government requirements affecting the health benefit plan.

(g) Rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs ~~((due to network provider reimbursement schedules or type of network))~~ for a plan. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Except for small group health benefit plans that qualify as insurance coverage combined with a health savings account as defined by the United States internal revenue service, adjusted community rates established under this section shall pool the medical experience of all groups purchasing coverage, including the small group participants in the health insurance partnership established in RCW 70.47A.030. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus ~~((four))~~ eight percentage points from the overall adjustment of a carrier's entire small group pool ~~((such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal))~~ if certified by a member of the American academy of actuaries, that: (i) The variation is a result of deductible leverage, benefit design, claims cost trend for the plan, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than eight percentage points are subject to review by the commissioner, and must be approved or denied within thirty days of submittal. A variation that is not denied within ~~((sixty))~~ thirty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial ~~((within thirty days))~~ at the time of the denial.

(j) For health benefit plans purchased through the health insurance partnership established in chapter 70.47A RCW:

(i) Any surcharge established pursuant to RCW 70.47A.030(2)(e) shall be applied only to health benefit plans purchased through the health insurance partnership; and

(ii) Risk adjustment or reinsurance mechanisms may be used by the health insurance partnership program to redistribute funds to carriers participating in the health insurance partnership based on differences in risk attributable to individual choice of health plans or other factors unique to health insurance partnership participation. Use of such mechanisms shall be limited to the partnership program and will not affect small group health plans offered outside the partnership.

~~((4))~~ (5) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

~~((5))~~ (6)(a) Except as provided in this subsection, requirements used by a contractor in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) A contractor shall not require a minimum participation level greater than:

(i) One hundred percent of eligible employees working for groups with three or less employees; and

(ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) A contractor may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(e) Minimum participation requirements and employer premium contribution requirements adopted by the health insurance partnership board under RCW 70.47A.110 shall apply only to the employers and employees who purchase health benefit plans through the health insurance partnership.

~~((6))~~ (7) A contractor must offer coverage to all eligible employees of a small employer and their dependents. A contractor may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. A contractor may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

Sec. 5. RCW 48.46.066 and 2008 c 143 s 8 are each amended to read as follows:

~~(1)((a))~~ (1)((a)) A health maintenance organization offering any health benefit plan to a small employer, either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer ~~((a))~~ no more than one health benefit plan featuring a limited schedule of covered health care services. ~~((Nothing in this subsection shall preclude a health maintenance organization from offering, or a small employer from purchasing, other health benefit plans that may have more comprehensive benefits than those included in the product offered under this subsection. A health maintenance organization offering a health benefit plan under this subsection shall clearly disclose all the covered benefits to the small employer in a brochure filed with the commissioner.~~

~~—(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510, 48.46.520, and 48.46.530.~~

~~—(2))~~ (2)) (a) The plan offered under this subsection may be offered with a choice of cost-sharing arrangements, and may, but is not required to, comply with: RCW 48.46.250, 48.46.272 through 48.46.291, 48.46.320, 48.46.350, 48.46.375, 48.46.440 through 48.46.460, 48.46.480, 48.46.490, 48.46.510, 48.46.520, 48.46.530, 48.46.565, 48.46.570, 48.46.575, 48.43.045(1) except as required in (b) of this subsection, 48.43.093, 48.43.115 through 48.43.185, 48.43.515(5), or 48.42.100.

(b) In offering the plan under this subsection, the health maintenance organization must offer the small employer the option of permitting every category of health care provider to provide health services or care for conditions covered by the plan pursuant to RCW 48.43.045(1).

(2) A health maintenance organization offering the plan under subsection (1) of this section must also offer and actively market to the small employer at least one additional health benefit plan.

(3) Nothing in this section shall prohibit a health maintenance organization from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the health benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

~~((3))~~ (4) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The health maintenance organization shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The health maintenance organization shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection ~~((3))~~ (4).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;
- (iii) Changes to the health benefit plan requested by the small employer; or
- (iv) Changes in government requirements affecting the health benefit plan.

(g) Rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs ~~((due to network provider reimbursement schedules or type of network))~~ for a plan. This

subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Except for small group health benefit plans that qualify as insurance coverage combined with a health savings account as defined by the United States internal revenue service, adjusted community rates established under this section shall pool the medical experience of all groups purchasing coverage, including the small group participants in the health insurance partnership established in RCW 70.47A.030. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus ~~((four))~~ eight percentage points from the overall adjustment of a carrier's entire small group pool ~~((such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal))~~ if certified by a member of the American academy of actuaries, that: (i) The variation is a result of deductible leverage, benefit design, claims cost trend for the plan, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the health maintenance organization's small group pool. Variations of greater than eight percentage points are subject to review by the commissioner, and must be approved or denied within thirty days of submittal. A variation that is not denied within ~~((sixty))~~ thirty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial ~~((within thirty days))~~ at the time of the denial.

(j) For health benefit plans purchased through the health insurance partnership established in chapter 70.47A RCW:

(i) Any surcharge established pursuant to RCW 70.47A.030(2)(e) shall be applied only to health benefit plans purchased through the health insurance partnership; and

(ii) Risk adjustment or reinsurance mechanisms may be used by the health insurance partnership program to redistribute funds to carriers participating in the health insurance partnership based on differences in risk attributable to individual choice of health plans or other factors unique to health insurance partnership participation. Use of such mechanisms shall be limited to the partnership program and will not affect small group health plans offered outside the partnership.

~~((4))~~ (5) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

~~((5))~~ (6)(a) Except as provided in this subsection, requirements used by a health maintenance organization in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) A health maintenance organization shall not require a minimum participation level greater than:

- (i) One hundred percent of eligible employees working for groups with three or less employees; and
- (ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees

or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) A health maintenance organization may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(e) Minimum participation requirements and employer premium contribution requirements adopted by the health insurance partnership board under RCW 70.47A.110 shall apply only to the employers and employees who purchase health benefit plans through the health insurance partnership.

~~((6))~~ (7) A health maintenance organization must offer coverage to all eligible employees of a small employer and their dependents. A health maintenance organization may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. A health maintenance organization may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

Sec. 6. RCW 48.43.041 and 2000 c 79 s 26 are each amended to read as follows:

(1) All individual health benefit plans, other than catastrophic health plans (~~(, offered or renewed on or after October 1, 2000)~~) and plans for young adults described in subsection (3) of this section, shall include benefits described in this section. Nothing in this section shall be construed to require a carrier to offer an individual health benefit plan.

(a) Maternity services that include, with no enrollee cost-sharing requirements beyond those generally applicable cost-sharing requirements: Diagnosis of pregnancy; prenatal care; delivery; care for complications of pregnancy; physician services; hospital services; operating or other special procedure rooms; radiology and laboratory services; appropriate medications; anesthesia; and services required under RCW 48.43.115; and

(b) Prescription drug benefits with at least a two thousand dollar benefit payable by the carrier annually.

(2) If a carrier offers a health benefit plan that is not a catastrophic health plan to groups, and it chooses to offer a health benefit plan to individuals, it must offer at least one health benefit plan to individuals that is not a catastrophic health plan.

(3) Carriers may design and offer a separate health plan targeted at young adults between nineteen and thirty-four years of age. The plan may include the benefits required under subsections (1) and (2) of this section but is not required to include these benefits. The health plan designed for young adults is exempt from the requirements of RCW 48.43.045(1), 48.43.515(5), 48.44.327, 48.20.392, 48.46.277, 48.43.043, 48.20.580, 48.21.241, 48.44.341, and 48.46.291. Carriers who choose to exclude maternity services from a young adult plan offered under this section must allow enrollees who become pregnant to transfer to another health benefit plan with similar cost-sharing provisions that provides coverage for maternity services, once pregnancy is confirmed by a licensed provider. Carriers shall allow the transfer to occur without applying a preexisting condition waiting period or other limitation or penalty including, but not limited to, satisfying a new deductible or stop-loss requirement.

Sec. 7. RCW 48.44.022 and 2006 c 100 s 3 are each amended to read as follows:

(1) Except for health benefit plans covered under RCW 48.44.021, premium rates for health benefit plans for individuals shall be subject to the following provisions:

(a) The health care service contractor shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age;
- (iv) Tenure discounts; and
- (v) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments which shall begin with age twenty and end with age sixty-five. Individuals under the age of twenty shall be treated as those age twenty.

(c) The health care service contractor shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection.

(d) Except as provided in subsection (2) of this section, the permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the family composition;
- (ii) Changes to the health benefit plan requested by the individual; or
- (iii) Changes in government requirements affecting the health benefit plan.

(g) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(h) A tenure discount for continuous enrollment in the health plan of two years or more may be offered, not to exceed ten percent.

(2) Adjusted community rates established under this section shall pool the medical experience of all individuals purchasing coverage, except individuals purchasing coverage under RCW 48.44.021, and shall not be required to be pooled with the medical experience of health benefit plans offered to small employers under RCW 48.44.023. Carriers may treat young adults and products developed specifically for them consistent with RCW 48.43.041(3) as a single-banded experience pool for purposes of establishing rates. The rates established for this age group are not subject to subsection (1)(d) of this section.

(3) As used in this section and RCW 48.44.023 "health benefit plan," "small employer," "adjusted community rates," and "wellness activities" mean the same as defined in RCW 48.43.005.

Sec. 8. RCW 48.46.064 and 2006 c 100 s 5 are each amended to read as follows:

(1) Except for health benefit plans covered under RCW 48.46.063, premium rates for health benefit plans for individuals shall be subject to the following provisions:

(a) The health maintenance organization shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age;
- (iv) Tenure discounts; and
- (v) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments which shall begin with age twenty and end with age sixty-five. Individuals under the age of twenty shall be treated as those age twenty.

(c) The health maintenance organization shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection.

(d) Except as provided in subsection (2) of this section, the permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the family composition;
- (ii) Changes to the health benefit plan requested by the individual; or
- (iii) Changes in government requirements affecting the health benefit plan.

(g) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(h) A tenure discount for continuous enrollment in the health plan of two years or more may be offered, not to exceed ten percent.

(2) Adjusted community rates established under this section shall pool the medical experience of all individuals purchasing coverage, except individuals purchasing coverage under RCW 48.46.063, and shall not be required to be pooled with the medical experience of health benefit plans offered to small employers under RCW 48.46.066. Carriers may treat young adults and products developed specifically for them consistent with RCW 48.43.041(3) as a single-banded experience pool for purposes of establishing rates. The rates established for this age group are not subject to subsection (1)(d) of this section.

(3) As used in this section and RCW 48.46.066, "health benefit plan," "adjusted community rate," "small employer," and "wellness activities" mean the same as defined in RCW 48.43.005.

Sec. 9. RCW 48.20.029 and 2006 c 100 s 2 are each amended to read as follows:

(1) Premiums for health benefit plans for individuals who purchase the plan as a member of a purchasing pool:

(a) Consisting of five hundred or more individuals affiliated with a particular industry;

(b) To whom care management services are provided as a benefit of pool membership; and

(c) Which allows contributions from more than one employer to be used towards the purchase of an individual's health benefit plan; shall be calculated using the adjusted community rating method that spreads financial risk across the entire purchasing pool of which the individual is a member. All such rates shall conform to the following:

(i) The insurer shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (A) Geographic area;
- (B) Family size;
- (C) Age;
- (D) Tenure discounts; and
- (E) Wellness activities.

(ii) The adjustment for age in (c)(i)(C) of this subsection may not use age brackets smaller than five-year increments which shall begin with age twenty and end with age sixty-five. Individuals under the age of twenty shall be treated as those age twenty.

(iii) The insurer shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer, and coverage for which medicare is not the primary payer. Both rates are subject to the requirements of this subsection.

(iv) Except as provided in subsection (2) of this section, the permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(v) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs not to exceed twenty percent.

(vi) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (A) Changes to the family composition;
- (B) Changes to the health benefit plan requested by the individual; or
- (C) Changes in government requirements affecting the health benefit plan.

(vii) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(viii) A tenure discount for continuous enrollment in the health plan of two years or more may be offered, not to exceed ten percent.

(2) Adjusted community rates established under this section shall not be required to be pooled with the medical experience of health benefit plans offered to small employers under RCW 48.21.045. Carriers may treat young adults and products developed specifically for them consistent with RCW 48.43.041(3) as a single-banded experience pool for purposes of establishing rates. The rates established for this age group are not subject to subsection (1)(c)(iv) of this section.

(3) As used in this section, "health benefit plan," "adjusted community rates," and "wellness activities" mean the same as defined in RCW 48.43.005.

NEW SECTION. Sec. 10. A new section is added to chapter 48.43 RCW to read as follows:

The office of the insurance commissioner shall make available educational and outreach materials targeted to young adults aged nineteen to thirty-four, as funding becomes available. Education and outreach efforts shall focus on educating young consumers on the importance and value of health insurance, including educational materials, public service messages, and other outreach activities. The commissioner is authorized to fund these activities with grants, donations, in-kind contributions, or other funding that may be available.

NEW SECTION. Sec. 11. As used in this chapter:

- (1) "Commissioner" means the insurance commissioner.
- (2) "Domestic carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020.
- (3) "Foreign health carrier" means a foreign individual health carrier or a foreign small employer health carrier.
- (4) "Foreign individual health carrier" means a carrier licensed to sell individual health benefits plans in any other state.
- (5) "Foreign small employer health carrier" means a carrier licensed to sell small employer health benefits plans in any other state.
- (6) "Hazardous financial condition" means that, based on its present or reasonably anticipated financial condition, a foreign health carrier is unlikely to be able to meet obligations to policyholders with respect to known claims or to any other obligations in the normal course of business.
- (7) "Health care provider" means an individual or entity which, acting within the scope of its license or certification, provides health care services, and includes, but is not limited to, a physician, dentist, nurse, or other health care professional whose professional practice is regulated pursuant to Title 18 RCW.
- (8) "Individual health benefits plan" means a benefits plan for persons and their dependents which pays or provides for hospital and medical expense benefits for covered services.
- (9) "Office" means the office of the insurance commissioner.
- (10) "Resident" means a person whose primary residence is in Washington and who is present in Washington for at least six months of the calendar year.
- (11) "Small employer health benefits plan" means a group benefits plan for persons and their dependents which pays or provides for hospital and medical expense benefits for covered services, offered by any person, firm, corporation, or partnership actively engaged in a business that employs at least two but not more than fifty employees.

NEW SECTION. Sec. 12. (1) Notwithstanding any other law or rule to the contrary, a foreign individual health carrier may offer and provide individual health benefits plans to residents in this state, if that carrier:

- (a) Offers the same individual health benefits plans in its domiciliary state and is in compliance with all applicable laws, regulations, and other requirements of its domiciliary state; and
 - (b) Obtains a certificate of authority to do business as a foreign health carrier in this state, pursuant to section 13 of this act.
- (2) Notwithstanding any other law to the contrary, a foreign small employer health carrier may offer and provide small employer health benefits plans to employers in this state, if that carrier:

- (a) Offers the same small employer health benefits plans in its domiciliary state and is in compliance with all applicable laws, regulations, and other requirements of its domiciliary state; and

- (b) Obtains a certificate of authority to do business as a foreign health carrier in this state, pursuant to section 13 of this act.

NEW SECTION. Sec. 13. (1) A foreign health carrier may apply for a certificate of authority to do business as a foreign health carrier in this state, using a form prescribed by the commissioner. Upon application, the commissioner shall issue a certificate of authority to the foreign health carrier unless the commissioner determines that the carrier:

- (a) Will not provide health insurance services in compliance with the provisions of this chapter;
- (b) Is in a hazardous financial condition, as determined by an examination by the commissioner conducted in accordance with the financial analysis handbook of the national association of insurance commissioners; or
- (c) Has not adopted procedures to ensure compliance with all applicable federal and state laws.

(2) A certificate of authority issued pursuant to this section shall be valid for three years from the date of issuance by the commissioner.

(3) The commissioner shall establish by rule:

- (a) Procedures for a foreign health carrier to renew a certificate of authority, pursuant to and consistent with the provisions of this chapter; and
- (b) A certificate of authority application and renewal fees, the amount of which shall be no greater than is reasonably necessary to enable the office to carry out the provisions of this chapter.

NEW SECTION. Sec. 14. (1) Each individual health benefits plan provided by a foreign individual health carrier to a resident of this state, and each application for the plan, shall disclose in plain language the following:

- (a) The differences between the individual health benefits plan issued by the foreign health carrier, and a policy issued in this state subject to the requirements of Title 48 RCW, using at least fourteen-point boldface type to describe the differences that relate to: Underwriting standards, premium rating, preexisting conditions, renewability, portability, and cancellation; and
- (b) An explanation of which state's laws govern the issuance of, and requirements under, the individual health benefits plan offered under this chapter.

(2) Each small employer health benefits plan provided by a foreign small employer health carrier to an employer in this state, and each application for the plan, shall disclose in plain language the following:

- (a) The differences between the small employer health benefits plan issued by the foreign health carrier, and a policy issued in this state subject to the requirements of Title 48 RCW, using at least fourteen-point boldface type to describe the differences that relate to: Underwriting standards, premium rating, preexisting conditions, renewability, portability, and cancellation; and
- (b) An explanation of which state's laws govern the issuance of, and requirements under, the small employer health benefits plan offered under this chapter.

NEW SECTION. Sec. 15. (1) The commissioner may deny, revoke, or suspend, after notice and opportunity to be heard, a certificate of authority issued to a foreign health carrier pursuant to this chapter for a violation of the provisions of this chapter, including any finding by the commissioner that a foreign health carrier is no longer in compliance with any of the conditions for issuance of a certificate of authority set forth in section 13(1) of this act, or the rules adopted pursuant to this chapter. The commissioner shall provide for an appropriate and timely right of appeal for the foreign health carrier whose certificate is denied, revoked, or suspended.

(2) The commissioner shall establish grievance and independent claims review procedures with respect to claims by a health care carrier or a covered person with which a foreign health carrier shall comply as a condition of issuing policies in this state.

(3)(a) The commissioner shall establish fair marketing standards for marketing materials used by foreign health carriers to market individual health benefits plans to residents in this state.

(b) The commissioner shall establish fair marketing standards for marketing materials used by foreign health carriers to market small employer health benefits plans to small employers in this state.

(4) The procedures and standards established under subsections (2) and (3) of this section shall be applied on a nondiscriminatory basis so as not to place greater responsibilities on foreign health carriers than the responsibilities placed on other health carriers doing business in this state.

NEW SECTION. Sec. 16. A domestic carrier authorized to do business in this state may apply to the commissioner for an exemption from the provisions of this title and any rules promulgated under those provisions, that would allow the domestic carrier to offer health care plans that are comparable in plan design to health care plans offered by foreign health carriers under this chapter. Upon a domestic carrier's application, the commissioner shall make an order exempting the domestic carrier from those provisions and rules in order to allow the domestic carrier to offer a health care plan or plans that are comparable in design to health care plans offered by foreign health carriers under this chapter. Any health care plan offer by a domestic carrier under an exemption under this section shall be subject to the requirements that apply to health care plans offered by foreign health carriers under this chapter.

NEW SECTION. 17. The office shall adopt rules to effectuate the purposes of this chapter, provided, however, that the rules shall not:

(1) Directly or indirectly require a foreign health carrier to, directly or indirectly, modify coverage or benefit requirements, or restrict underwriting requirements or premium ratings, in any way that conflicts with the carrier's domiciliary state's laws or rules;

(2) Provide for requirements that are more stringent than those applicable to carriers that are licensed by the commissioner to provide health benefits plans in this state; or

(3) Require any individual health benefits plan or small employer health benefits plan issued by the foreign health carrier to be countersigned by an insurance agent or broker residing in this state.

NEW SECTION. Sec. 18. Sections 11 through 17 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. Sec. 19. 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."

Correct the title.

POINT OF ORDER

Representative Hudgins requested a scope and object ruling on amendment (607) to Second Substitute Senate Bill No. 5945.

SPEAKER'S RULING

Mr. Speaker (Representative Morris presiding): "In determining the scope and object of the bill, the Speaker looks to the bill as passed by the Senate because the House committee amendment has not been adopted. As it came from the Senate, the bill was titled an

act relating to "creating the Washington health partnership plan." The bill established the Washington partnership as a working group to develop recommendations for ensuring access to affordable health care services for every resident by 2012, and required state agencies to work with the federal government to maximize the receipt of federal funds for medical services to low-income children.

Amendment (607) strides the entire bill, and replaces it with amendatory provisions to existing individual and small group health insurance plans regulated by the Insurance Commissioner under Title 48 RCW. In addition, the amendment creates a new chapter in Title 48 RCW that would allow foreign health carriers to sell products offered in other states in the state of Washington. The amendment clearly exceeds the scope and object of the Senate bill, and the point of order is well taken."

The committee amendment 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.

Representative Cody spoke in favor of the passage of the bill.

Representatives Ericksen, Hinkle, Herrera, Alexander and Bailey spoke against the passage of the bill.

MOTION

On motion of Representative Santos, Representative Flannigan was excused

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5945, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5945, as amended by the House, and the bill passed the House by the following vote: Yeas, 62; Nays, 35; Absent, 0; Excused, 1.

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

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

Excused: Representative Flannigan.

SECOND SUBSTITUTE SENATE BILL NO. 5945, as amended by the House, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 13, 2009

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1002 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that restoration of the right to vote and serve on a jury, for individuals who have satisfied every other obligation of their sentence, best serves to reintegrate them into society, even if a no-contact order exists. Therefore, the legislature further finds clarification of the existing statute is desirable to provide clarity to the courts that a certificate of discharge shall be issued, while the no-contact order remains in effect, once other obligations are completed.

Sec. 2. RCW 9.94A.637 and 2007 c 171 s 1 are each amended to read as follows:

(1)(a) When an offender has completed all requirements of the sentence, including any and all legal financial obligations, and while under the custody and supervision of the department, the secretary or the secretary's designee shall notify the sentencing court, which shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

(b)(i) When an offender has reached the end of his or her supervision with the department and has completed all the requirements of the sentence except his or her legal financial obligations, the secretary's designee shall provide the county clerk with a notice that the offender has completed all nonfinancial requirements of the sentence.

(ii) When the department has provided the county clerk with notice that an offender has completed all the requirements of the sentence and the offender subsequently satisfies all legal financial obligations under the sentence, the county clerk shall notify the sentencing court, including the notice from the department, which shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

(c) When an offender who is subject to requirements of the sentence in addition to the payment of legal financial obligations either is not subject to supervision by the department or does not complete the requirements while under supervision of the department, it is the offender's responsibility to provide the court with verification of the completion of the sentence conditions other than the payment of legal financial obligations. When the offender satisfies all legal financial obligations under the sentence, the county clerk shall notify the sentencing court that the legal financial obligations have been satisfied. When the court has received both notification from the clerk and adequate verification from the offender that the sentence requirements have been completed, the court shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

(2)(a) For purposes of this subsection (2), a no-contact order is not a requirement of the offender's sentence. An offender who has completed all requirements of the sentence, including any and all legal financial obligations, is eligible for a certificate of discharge even if the offender has an existing no-contact order that excludes or

prohibits the offender from having contact with a specified person or business or coming within a set distance of any specified location.

(b) In the case of an eligible offender who has a no-contact order as part of the judgment and sentence, the offender may petition the court to issue a certificate of discharge and a separate no-contact order by filing a petition in the sentencing court and paying the appropriate filing fee associated with the petition for the separate no-contact order. This filing fee does not apply to an offender seeking a certificate of discharge when the offender has a no-contact order separate from the judgment and sentence.

(i)(A) The court shall issue a certificate of discharge and a separate no-contact order under this subsection (2) if the court determines that the offender has completed all requirements of the sentence, including all legal financial obligations. The court shall reissue the no-contact order separately under a new civil cause number for the remaining term and under the same conditions as contained in the judgment and sentence.

(B) The clerk of the court shall send a copy of the new no-contact order to the individuals protected by the no-contact order, along with an explanation of the reason for the change, if there is an address available in the court file. If no address is available, the clerk of the court shall forward a copy of the order to the prosecutor, who shall send a copy of the no-contact order with an explanation of the reason for the change to the last known address of the protected individuals.

(ii) Whenever an order under this subsection (2) is issued, the clerk of the court shall forward a copy of the order to the appropriate law enforcement agency specified in the order on or before the next judicial day. The clerk shall also include a cover sheet that indicates the case number of the judgment and sentence that has been discharged. Upon receipt of the copy of the order and cover sheet, the law enforcement agency shall enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order shall remain in this system until it expires. The new order, and case number of the discharged judgment and sentence, shall be linked in the criminal intelligence information system for purposes of enforcing the no-contact order.

(iii) A separately issued no-contact order may be enforced under chapter 26.50 RCW.

(iv) A separate no-contact order issued under this subsection (2) is not a modification of the offender's sentence.

(3) Every signed certificate and order of discharge shall be filed with the county clerk of the sentencing county. In addition, the court shall send to the department a copy of every signed certificate and order of discharge for offender sentences under the authority of the department. The county clerk shall enter into a database maintained by the administrator for the courts the names of all felons who have been issued certificates of discharge, the date of discharge, and the date of conviction and offense.

~~((3))~~ (4) An offender who is not convicted of a violent offense or a sex offense and is sentenced to a term involving community supervision may be considered for a discharge of sentence by the sentencing court prior to the completion of community supervision, provided that the offender has completed at least one-half of the term of community supervision and has met all other sentence requirements.

~~((4) Except as provided in subsection (5) of this section,))~~ (5) The discharge shall have the effect of restoring all civil rights lost by operation of law upon conviction, and the certificate of discharge shall so state. Nothing in this section prohibits the use of an offender's prior record for purposes of determining sentences for later

offenses as provided in this chapter. Nothing in this section affects or prevents use of the offender's prior conviction in a later criminal prosecution either as an element of an offense or for impeachment purposes. A certificate of discharge is not based on a finding of rehabilitation.

~~((5))~~ (6) Unless otherwise ordered by the sentencing court, a certificate of discharge shall not terminate the offender's obligation to comply with an order ~~((issued under chapter 10.99 RCW))~~ that excludes or prohibits the offender from having contact with a specified person or coming within a set distance of any specified location that was contained in the judgment and sentence. An offender who violates such an order after a certificate of discharge has been issued shall be subject to prosecution according to the chapter under which the order was originally issued.

~~((6))~~ (7) Upon release from custody, the offender may apply to the department for counseling and help in adjusting to the community. This voluntary help may be provided for up to one year following the release from custody.

Sec. 3. RCW 26.50.110 and 2007 c 173 s 2 are each amended to read as follows:

(1)(a) Whenever an order is granted under this chapter, chapter 7.90, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

(i) The restraint provisions prohibiting acts or threats of violence against, or stalking of, a protected party, or restraint provisions prohibiting contact with a protected party;

(ii) A provision excluding the person from a residence, workplace, school, or day care;

(iii) A provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location; or

(iv) A provision of a foreign protection order specifically indicating that a violation will be a crime.

(b) Upon conviction, and in addition to any other penalties provided by law, the court may require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, chapter 7.90, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, that restrains the person or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order issued under this chapter, chapter 7.90, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter, chapter 7.90, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of such an order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter, chapter 7.90, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 7.90, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order granted under this chapter, chapter 7.90, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 4 of the title, after "location;" strike the remainder of the title and insert "amending RCW 9.94A.637 and 26.50.110; creating a new section; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1002 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Appleton 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 Engrossed Substitute House Bill No. 1002, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1002, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, 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, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representative Taylor.

Excused: Representative Flannigan.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1002, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote YEA on ENGROSSED SUBSTITUTE HOUSE BILL NO. 1002.

DAVID V. TAYLOR, 15th District

MESSAGE FROM THE SENATE

April 13, 2009

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1033 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that:

(1) Environmental health hazards associated with lead wheel weights are a preventable problem. People are exposed to lead fragments and dust when lead wheel weights fall from motor vehicles onto Washington roadways and are then abraded and pulverized by traffic. Lead wheel weights on and alongside roadways can contribute to soil, surface, and groundwater contamination and pose hazards to downstream aquatic life.

(2) Lead negatively affects every bodily system. While it is injurious to people of all ages, lead is especially harmful to fetuses, children, and adults of childbearing age. Effects of lead on a child's cognitive, behavioral, and developmental abilities may necessitate large expenditures of public funds for health care and special education. Irreversible damage to children and subsequent expenditures could be avoided if exposure to lead is reduced.

(3) There are no federal regulatory controls governing use of lead wheel weights. The legislature recognizes the state's need to protect the public from exposure to lead hazards.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of ecology.

(2) "Environmentally preferred wheel weight" means any wheel weight used for balancing motor vehicle wheels that do not include more than 0.5 percent by weight of any chemical, group of chemicals, or metal of concern identified by rule under chapter 173-333 WAC.

(3) "Lead wheel weight" means any externally affixed or attached wheel weight used for balancing motor vehicle wheels and composed of greater than 0.1 percent lead by weight.

(4) "Person" includes any individual, firm, association, partnership, corporation, governmental entity, organization, or joint venture.

(5) "Vehicle" means any motor vehicle registered in Washington with a wheel diameter of less than 19.5 inches or a gross vehicle weight of fourteen thousand pounds or less.

NEW SECTION. Sec. 3. (1) On and after January 1, 2011, a person who replaces or balances motor vehicle tires must replace lead wheel weights with environmentally preferred wheel weights on all vehicles when they replace or balance tires in Washington. However, the person may use alternatives to lead wheel weights that are determined by the department to not qualify as environmentally preferred wheel weights for up to two years following the date of that determination, but must thereafter use environmentally preferred wheel weights.

(2) A person who is subject to the requirement in subsection (1) of this section must recycle the lead wheel weights that they remove.

(3) A person who fails to comply with subsection (1) of this section is subject to penalties prescribed in section 5 of this act. A violation of subsection (1) of this section occurs with respect to each vehicle for which lead wheel weights are not replaced in compliance with subsection (1) of this section.

(4) An owner of a vehicle is not subject to any requirement in this section.

NEW SECTION. Sec. 4. (1) The department shall achieve compliance with section 3 of this act through the enforcement sequence specified in this section.

(2) To provide assistance in identifying environmentally preferred wheel weights, the department shall, by October 1, 2010, prepare and distribute information regarding this chapter to the maximum extent practicable to:

(a) Persons that replace or balance motor vehicle tires in Washington; and

(b) Persons generally in the motor vehicle tire and wheel weight manufacturing, distribution, wholesale, and retail industries.

(3) The department shall issue a warning letter to a person who fails to comply with section 3 of this act and offer information or other appropriate assistance. If the person does not comply with section 3(1) of this act within one year of the department's issuance of the warning letter, the department may assess civil penalties under section 5 of this act.

NEW SECTION. Sec. 5. (1) An initial violation of section 3(1) of this act is punishable by a civil penalty not to exceed five hundred dollars. Subsequent violations of section 3(1) of this act are punishable by civil penalties not to exceed one thousand dollars for each violation.

(2) Penalties collected under this section must be deposited in the state toxics control account created in RCW 70.105D.070.

NEW SECTION. Sec. 6. The department may adopt rules to fully implement this chapter.

NEW SECTION. Sec. 7. 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. 8. Sections 1 through 7 of this act constitute a new chapter in Title 70 RCW."

On page 1, line 2 of the title, after "impacts;" strike the remainder of the title and insert "adding a new chapter to Title 70 RCW; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1033 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Campbell spoke in favor of the passage of the bill.

Representative Shea spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1033, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1033, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 67; Nays, 30; Absent, 0; Excused, 1.

Voting yea: Representatives Angel, Appleton, Bailey, Campbell, Carlyle, Chase, Clibborn, Cody, Conway, Dammeier, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Finn, Goodman, Grant-Herriot, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Priest, Probst, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Armstrong, Blake, Chandler, Condotta, Cox, Crouse, DeBolt, Erickson, Haler, Herrera, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, Orcutt, Parker, Pearson, Roach, Rodne, Ross, Schmick, Shea, Short, Taylor, Walsh and Warnick.

Excused: Representative Flannigan.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1033, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 7, 2009

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1038 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that the specialized forest products work group created pursuant to section 2, chapter 392, Laws of 2007 produced a number of consensus recommendations to the legislature as to how the permitting

requirements of chapter 76.48 RCW can be improved. In making recommendations, the work group focused on the goals enumerated in RCW 76.48.010 (as recodified by this act).

(2) It is the intent of the legislature to enact those recommendations contained in the report submitted to the legislature from the specialized forest products work group in December 2008 that require statutory modifications.

(3) It is also the intent of the legislature for the department of natural resources, along with other state and local agencies, to take those administrative actions necessary to execute the recommendations contained in the report that do not require statutory changes. When taking administrative actions regarding specialized forest products, those actions should, when appropriate, be conducted consistent with recommendations contained in the report submitted to the legislature from the specialized forest products work group.

Sec. 2. RCW 76.48.010 and 1967 ex.s. c 47 s 2 are each amended to read as follows:

(1) It is in the public interest of this state to protect ((a great)) an important natural resource and to provide ((a high degree of)) protection to the landowners of the state of Washington from the theft of specialized forest products.

(2) To satisfy this public interest, this chapter is intended to:

(a) Provide law enforcement with reasonable tools;

(b) Reasonably protect landowners from theft;

(c) Ensure that requirements are not unduly burdensome to those harvesting, transporting, possessing, and purchasing specialized forest products;

(d) Craft requirements that are clear and readily understandable; and

(e) Establish requirements that are able to be administered and enforced consistently statewide.

Sec. 3. RCW 76.48.020 and 2008 c 191 s 9 are each amended to read as follows:

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

(1) "Artistic cedar product" means a product made from the wood of a cedar tree, including western red cedar, that is not included in the definition of "cedar products" and has been carved, turned, or otherwise manipulated to more than an insignificant degree with the objective intent to be an artistic expression and that would be or is recognized by the applicable local market as having an economic value greater than the value of the raw materials used. Examples of artistic cedar products include, but are not limited to:

(a) Chainsaw carvings;

(b) Hand carvings;

(c) Decorative bowls and boxes.

(2) "Authorization" means a properly completed preprinted form authorizing the transportation or possession of Christmas trees ((which contains the information required by)) prepared consistent with RCW 76.48.080((, a sample of which is filed before the harvesting occurs with the sheriff of the county in which the harvesting is to occur)) (as recodified by this act).

((2)) (3) "Bill of lading" means a written or printed itemized list or statement of particulars pertinent to the transportation or possession of a specialized forest product prepared consistent with RCW 76.48.080 (as recodified by this act).

((3)) (4) "Cascara bark" means the bark of a Cascara tree.

((4)) "Cedar processor" means any person who purchases, takes, or retains possession of cedar products or cedar salvage for later sale in the same or modified form following removal and delivery from the land where harvested.))

(5) ("~~Cedar products~~" means cedar shakeboards, shake and shingle bolts, and rounds one to three feet in length:

~~(6) "Cedar salvage" means cedar chunks, slabs, stumps, and logs having a volume greater than one cubic foot and being harvested or transported from areas not associated with the concurrent logging of timber stands (a) under a forest practices application approved or notification received by the department of natural resources, or (b) under a contract or permit issued by an agency of the United States government:)) (a) "Cedar products" means the following if made from the wood of a cedar tree, including western red cedar:~~

~~(i) Shake and shingle bolts;~~

~~(ii) Fence posts and fence rails;~~

~~(iii) Logs not covered by a valid approved forest practices application or notification under chapter 76.09 RCW; and~~

~~(iv) Other pieces measuring fifteen inches or longer.~~

~~(b) "Cedar products" does not include those materials identified in the definition of "processed cedar products" or "artistic cedar products."~~

~~((7)) (6) "Christmas trees" means any evergreen trees (or the top thereof, commonly known as Christmas trees, with limbs and branches, with or without roots, including fir, pine, spruce, cedar, and other coniferous species) including fir, pine, spruce, cedar, and other coniferous species commonly known as Christmas trees. The definition of Christmas trees includes trees with or without the roots intact and the tops of the trees. The definition of Christmas trees does not include trees without limbs or branches.~~

~~((8)) (7) "Cut or picked evergreen foliage(, "commonly known as brush:)" means evergreen boughs, huckleberry foliage, salal, fern, Oregon grape, rhododendron, mosses, bear grass, ((scotch broom (Cytisus scoparius:)) and other cut or picked evergreen products. "Cut or picked evergreen foliage" does not ((mean)) include cones, berries, any foliage that does not remain green year-round, ((or)) seeds, or any plant listed on the state noxious weed list under RCW 17.10.080.~~

~~((9)) (8) "Department" means the department of natural resources.~~

~~(9) "First specialized forest products buyer" means the first person that receives any specialized forest products after they leave the harvest site.~~

~~(10) "Harvest" means to separate, by cutting, prying, picking, peeling, breaking, pulling, splitting, or otherwise removing, a specialized forest product ((a) from its physical connection or contact with the land or vegetation upon which it is or was growing or (b) from the position in which it is lying upon the land)). "Harvest" includes both removing a specialized forest product from its original physical connection with the land and collecting a specialized forest product that has been previously separated from the land.~~

~~((10)) (11) "Harvest site" means each location where one or more persons are engaged in harvesting specialized forest products close enough to each other that communication can be conducted with an investigating law enforcement officer in a normal conversational tone.~~

~~((11)) (12) "Huckleberry" means the following species of edible berries, if they are not nursery grown: Big huckleberry (*Vaccinium membranaceum*), Cascade blueberry (*Vaccinium deliciosum*), evergreen huckleberry (*Vaccinium ovatum*), red huckleberry (*Vaccinium parvifolium*), globe huckleberry (*Vaccinium globulare*), oval-leaf huckleberry (*Vaccinium ovalifolium*), Alaska huckleberry (*Vaccinium alaskaense*), dwarf huckleberry (*Vaccinium caespitosum*), western huckleberry (*Vaccinium occidentale*), bog~~

~~blueberry (*Vaccinium uliginosum*), dwarf bilberry (*Vaccinium myrtilloides*), and grouse whortleberry (*Vaccinium scoparium*).~~

~~((12)) (13) "Landowner" means, with regard to real property, the private owner, the state of Washington or any political subdivision, the federal government, or a person who by deed, contract, or lease has authority to harvest and sell the specialized forest products of the property. "Landowner" does not include the purchaser or successful high bidder at a public or private timber sale.~~

~~((13)) (14) "Native ornamental trees and shrubs" means any trees or shrubs which are not nursery grown and which have been removed from the ground with the roots intact.~~

~~((14) "Permit area" means a designated tract of land that may contain single or multiple harvest sites)) (15) "Permittee" means a person who is authorized by a permit issued consistent with this chapter to harvest, possess, and transport specialized forest products or to sell huckleberries.~~

~~((15)) (16) "Permitter" means the landowner of the land from where specialized forest products were, or are planned to be, harvested under a permit issued consistent with this chapter.~~

~~(17) "Person" includes the plural and all corporations, foreign or domestic, copartnerships, firms, and associations of persons.~~

~~((16)) (18) "Processed cedar products" means ((cedar shakes, shingles, fence posts, hop poles, pickets, stakes, rails, or rounds less than one foot in length)) products made from the wood of a cedar tree, including western red cedar, that have undergone more than an insignificant degree of value-added processing and are not included in the definition of "cedar products." Examples of processed cedar products include, but are not limited to:~~

~~(a) Shakes;~~

~~(b) Shingles;~~

~~(c) Hop poles;~~

~~(d) Pickets; and~~

~~(e) Stakes.~~

~~((17) "Sheriff" means, for the purpose of validating specialized forest products permits, the county sheriff, deputy sheriff, or an authorized employee of the sheriff's office or an agent of the office.~~

~~((18)) (19) "Sales invoice" means a written or printed itemized list or statement of particulars pertinent to the transportation or possession of a specialized forest product prepared consistent with RCW 76.48.080 (as recodified by this act).~~

~~(20) "Secondary specialized forest products buyer" means any person who receives any specialized forest products after the transaction with the first specialized forest products buyer.~~

~~(21) "Specialized forest products" means ((Christmas trees, native ornamental trees and shrubs, cut or picked evergreen foliage, cedar products, cedar salvage, processed cedar products, specialty wood, wild edible mushrooms, and Cascara bark)) the following:~~

~~(a) Specialty wood;~~

~~(b) More than five Christmas trees;~~

~~(c) More than five native ornamental trees and shrubs;~~

~~(d) More than twenty pounds of cut or picked evergreen foliage;~~

~~(e) More than five pounds of Cascara bark; and~~

~~(f) More than five United States gallons of wild edible mushrooms.~~

~~((19)) (22) "Specialized forest products permit" or "permit" means a printed document ((in a form printed by the department of natural resources, or true copy thereof, that is signed by a landowner or his or her authorized agent or representative, referred to in this chapter as "permitters" and validated by the county sheriff and authorizes a designated person, referred to in this chapter as "permittee," who has also signed the permit, to harvest and transport a designated specialized forest product from land owned or controlled~~

and specified by the permitter and that is located in the county where the permit is issued, or sell raw or unprocessed huckleberries)) and all attachments completed in compliance with the requirements of this chapter and includes both validated permits and verifiable permits.

~~((20))~~ (23) "Specialty wood" means ~~((wood))~~:

(a) A cedar product; or

(b) Englemann spruce, Sitka spruce, big leaf maple, or western red alder that ~~((is))~~:

~~((a))~~ (i) Is in logs ~~((less than eight feet in length))~~, chunks, slabs, stumps, or burls; ~~((and~~

~~((b) One or more of the following:~~

~~((i) Of the species western red cedar, Englemann spruce, Sitka spruce, big leaf maple, or western red alder;))~~

(ii) Is capable of being cut into a segment that is without knots in a portion of the surface area at least ~~((twenty-one))~~ nineteen inches long and seven and a quarter inches wide when measured from the outer surface toward the center; ~~((or~~

~~((iii) Suitable for the purposes of making musical instruments or ornamental boxes))~~

~~((iii) Measures:~~

(A) Nineteen inches or longer;

(B) Greater than one and three-quarter inches thick; and

(C) Seven and one-quarter inches or greater in width; and

~~((iv) Is being harvested or transported from areas not associated with the concurrent logging of timber stands:~~

(A) Under a forest practices application approval or notification received by the department under chapter 76.09 RCW; or

(B) Under a contract or permit issued by an agency of the United States government.

~~((21) "Specialty wood buyer" means the first person that receives any specialty wood product after it leaves the harvest site.~~

~~((22))~~ (24) "Specialty wood processor" means any person who purchases, takes, or retains possession of specialty wood ~~((products or specialty wood salvage))~~ for later sale in the same or modified form following removal and delivery from the land where harvested.

~~((23))~~ (25) "Transportation" means the physical conveyance of specialized forest products outside or off of a harvest site by any means.

~~((24))~~ (26) "True copy" means a replica of a ~~((validated))~~ specialized forest products permit ~~((as))~~ reproduced ~~((by a copy machine capable of effectively reproducing the information contained on the permittee's copy of the specialized forest products permit. A copy is made true by the permittee or the permittee and permitter signing in the space provided on the face of the copy. A true copy will be effective until the expiration date of the specialized forest products permit unless the permittee or the permittee and permitter specify an earlier date. A permitter may require the actual signatures of both the permittee and permitter for execution of a true copy by so indicating in the space provided on the original copy of the specialized forest products permit. A permittee, or, if so indicated, the permittee and permitter, may condition the use of the true copy to harvesting only, transportation only, possession only, or any combination thereof))~~ as provided in section 6 of this act.

~~((25))~~ (27) "Validated permit" means a permit that is validated as required under this chapter prior to the harvest, transportation, or possession of specialized forest products.

(28) "Verifiable permit" means a permit that contains the required information allowing a law enforcement officer to verify the validity of the information contained on the permit but that does not require validation prior to the harvest, transportation, or possession of specialized forest products.

(29) "Wild edible mushrooms" means edible mushrooms not cultivated or propagated by ~~((artificial))~~ domestic means.

Sec. 4. RCW 76.48.060 and 2008 c 191 s 3 are each amended to read as follows:

(1) ~~Except as provided in RCW 76.48.100 (as recodified by this act), a completed specialized forest products permit ((validated by the county sheriff shall be obtained by a person prior to)) issued under this chapter is required prior to engaging in the following activities:~~

(a) Harvesting any specialized forest products from any lands, including his or her own ~~((, more than five Christmas trees, more than five native ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage, any cedar products, cedar salvage, processed cedar products, or more than five pounds of Cascara bark, or more than five United States gallons of a single species of wild edible mushroom; or~~

~~((b) Selling, or offering for sale, any amount of raw or unprocessed huckleberries.~~

~~((2) Specialized forest products permit forms shall be provided by the department of natural resources, and shall be made available through the office of the county sheriff to permittees or permitters in reasonable quantities. A permit form shall be completed in triplicate for each permitter's property on which a permittee harvests specialized forest products. A properly completed permit form shall be mailed or presented for validation to the sheriff of the county in which the specialized forest products are to be harvested.~~

~~((3) Before a permit form is validated by the sheriff, sufficient personal identification may be required to reasonably identify the person mailing or presenting the permit form and the sheriff may conduct other investigations as deemed necessary to determine the validity of the information alleged on the form. When the sheriff is reasonably satisfied as to the truth of the information, the form shall be validated with the sheriff's validation stamp.~~

~~((4) Upon validation, the form shall become the specialized forest products permit authorizing the harvesting, possession, or transportation of specialized forest products and the sale of huckleberries, subject to any other conditions or limitations which the permitter may specify. Two copies of the permit shall be given or mailed to the permitter, or one copy shall be given or mailed to the permitter and the other copy given or mailed to the permittee. The original permit shall be retained in the office of the county sheriff validating the permit.~~

~~((5) In the event a single land ownership is situated in two or more counties, a specialized forest product permit shall be completed as to the land situated in each county.~~

~~((6) While engaged in harvesting of specialized forest products, permittees, or their agents or employees, must have readily available at each harvest site a valid permit or true copy of the permit.))~~ land.

(b) Possessing or transporting any specialized forest products, unless the person has in his or her possession either of the following in lieu of a permit:

(i) A true copy of the permit;

(ii) If the person is transporting the specialized forest product from a location other than the harvest site or is a first or secondary specialized forest products buyer, a sales invoice, bill of lading, or, for the possession and transportation of Christmas trees only, an authorization if a copy of the authorization has been filed prior to the harvest of the Christmas trees with the sheriff's office for the county in which the Christmas trees are to be harvested;

(iii) A bill of lading or documentation issued in or by another state, a Canadian province, or the federal government indicating the true origin of the specialized forest products as being outside of Washington; or

(iv) If the products were harvested within the operational area defined by a valid forest practices application or notification under chapter 76.09 RCW, a sequentially numbered load ticket generated by the landowner or the landowner's agent that includes, at a minimum, all information required on a bill of lading and the forest practices application number.

(c) Selling, or offering for sale, any amount of raw or unprocessed huckleberries, regardless if the huckleberries were harvested with the consent of the landowner, unless the possessor of the huckleberries being offered for sale is able to show that the huckleberries originated on land owned by the United States forest service and displays a valid permit from the United States forest service that lawfully entitles the possessor to harvest the huckleberries in question.

(2)(a) Unless otherwise designated by the permittor as provided in this subsection, a permit or true copy must be readily available for inspection at each harvest site.

(b) An individual permit or true copy must be carried and made readily available for inspection by each individual permittee at a harvest site if the permittor designated an individual permit or true copy as an additional condition or limitation specified on the permit under RCW 76.48.050 (as recodified by this act).

Sec. 5. RCW 76.48.080 and 1979 ex.s. c 94 s 7 are each amended to read as follows:

~~((The))~~ An authorization, sales invoice, or bill of lading ((required by RCW 76.48.070 shall)) must specify the following in order to satisfy the requirements of this chapter:

(1) The date of ((its execution)) the product's transportation.

(2) The ((number)) amount and type of specialized forest products ((sold or)) being transported.

(3) The name and address of the ((owner, vendor, or donor of the specialized forest products:

~~— (4) The name and address of the vendee, donee, or receiver of the)) person receiving the specialized forest products.~~

~~((5) The location of origin of the specialized forest products:))~~

(4) The name and address of the first or secondary specialized forest products buyer, specialty wood processor, or other person from where the specialized forest products are being transported.

(5) The name of the driver transporting the specialized forest products.

(6) The license plate number of the vehicle transporting the specialized forest product.

NEW SECTION. Sec. 6. A new section is added to chapter 76.48 RCW to read as follows:

(1) A true copy of a specialized forest products permit is valid if:

(a) The copy is reproduced by a copy machine capable of effectively reproducing the permit information required under RCW 76.48.050 (as recodified by this act); and

(b)(i) The permittee has provided an original signature in the space provided on the face of the copy.

(ii) An actual signature of the permittor is also required for a true copy to be valid if the permittor indicates on the space provided for signatures on the original permit that the actual signature of the permittor is required for the validation of any copies.

(2) A true copy is effective until the expiration date of the underlying permit unless an earlier date is provided by the signatories to the copy.

(3) Either signatory to a permit may condition the use of the true copy for only harvesting, only possessing, only transporting, or a combination of harvesting, possessing, and transporting the

associated specialized forest products by indicating the limitations of the true copy on the permit or the copy.

(4) Any permittee issuing a true copy must record and retain for one year the following information:

(a) The date the true copy is issued;

(b) The license plate number and make and model of the vehicle to be used with the true copy;

(c) The name and address of the person receiving the true copy;

(d) The unique number assigned to a valid state identification document issued to the person; and

(e) The expiration date of the true copy.

NEW SECTION. Sec. 7. A new section is added to chapter 76.48 RCW to read as follows:

(1)(a) Except for the sale of huckleberries, the permit requirements of RCW 76.48.060 (as recodified by this act) may be satisfied with either a validated permit or a verifiable permit. The decision to use a validated or verifiable permit must be made and agreed upon jointly by the permittee and the permittor.

(b) For the sale of huckleberries, only a validated permit satisfies the requirements of RCW 76.48.060 (as recodified by this act).

(2)(a) Forms for both validated permits and verifiable permits must be provided by the department and be made available in reasonable quantities through county sheriff offices and other locations deemed appropriate by the department.

(b) In designing the forms, the department shall ensure that:

(i) All mandatory requirements of this chapter are satisfied;

(ii) The type of permit is clearly marked on the form;

(iii) Each permit is separately numbered and the issuance of the permits are by unique numbers; and

(iv) The form is designed in a manner allowing a permittor to require his or her signature on all true copies as provided in section 6 of this act.

(3) Permit forms must be completed in triplicate for each property and in each county in which specialized forest products are proposed to be harvested or huckleberries sold.

(4)(a) Within five business days after the signature of the permittor on the form for a verifiable permit, as required in RCW 76.48.050 (as recodified by this act), the original permit form must be provided by the permittee to the sheriff of the county in which the specialized forest products are to be harvested. The permittee may provide the permit form in a manner convenient to the permittee and the sheriff's office, including in-person presentation or by mail. If mailed, the permit form must be postmarked within the time window established under this subsection.

(b) Upon full completion, as provided in RCW 76.48.050 (as recodified by this act), the permit form for a validated permit must, except for permits to sell huckleberries, be mailed or presented for validation to the sheriff of the county in which the specialized forest products are to be harvested. Validated permits relating to the sale of huckleberries may be validated by the sheriff of any county in the state.

(5) Two copies of the permit must be retained by the permittee, of which one copy must be given or mailed to the permittor by the permittee. The original permit must be retained in the office of the county sheriff for the purposes of verifying the permit, if necessary.

(6) All permits expire no later than the end of the calendar year in which they are issued.

(7) Permits provided under this section are subject to any other conditions or limitations that the permittor may specify.

(8) Before a permit form is accepted or validated by a sheriff, sufficient personal identification may be required to reasonably identify the person mailing or presenting the permit form. The sheriff

may conduct other investigations as deemed necessary to determine the validity of the information alleged on the form.

(9) In the event a single land ownership is situated in two or more counties, a permit form must be completed, as provided in this section, for the portions of the ownership situated in each county.

(10) Permits that are validated by or provided to a sheriff's office under this section must be maintained by that office for a length of time determined by the appropriate records retention schedule.

NEW SECTION. Sec. 8. A new section is added to chapter 76.48 RCW to read as follows:

(1) Forms for a verifiable permit become valid for the purposes of RCW 76.48.060 (as recodified by this act) upon the completion of all information required by RCW 76.48.050 (as recodified by this act).

(2) Forms for a validated permit become valid for the purposes of RCW 76.48.060 (as recodified by this act) upon the validation of the form by the appropriate county sheriff.

Sec. 9. RCW 76.48.050 and 2008 c 191 s 2 are each amended to read as follows:

(1) ~~((Except as otherwise provided in subsection (3) of this section,))~~ A specialized forest products ((permits shall consist of properly completed permit forms validated by the sheriff of the county in which the specialized forest products are to be harvested. Each permit shall be separately numbered and the issuance of the permits shall be by consecutive numbers. All specialized forest products permits shall expire at the end of the calendar year in which issued, or sooner, at the discretion of the permitter)) permit form may not be validated or accepted for verification by a sheriff unless the permit satisfies the requirements of this section.

(2) A properly completed ~~((specialized forest products))~~ permit form shall include:

(a) The date of its execution and expiration;

(b) The name, address, up to three telephone numbers, ~~((if any,))~~ and signature of the ~~((permitter))~~ permittee and permittor;

(c) ~~((The name, address, telephone number, if any, and signature of the permittee;~~

~~((d)))~~ The type of specialized forest products to be harvested or transported;

~~((e)))~~ (d) The approximate amount or volume of specialized forest products to be harvested or transported;

~~((f)))~~ (e)(i) For validated permits only, the parcel number or the legal description of the property from which the specialized forest products are to be harvested or transported((-including));

(ii) For verifiable permits only:

(A) The parcel number for where the harvesting is to occur, unless the owner of the parcel actually lives at the parcel and the parcel's boundaries comprise an area one acre in size or smaller;

(B) The address of the property where the harvesting is to occur if the owner of the property lives at the parcel and the parcel's boundaries comprise an area less than one acre;

(C) The name of the county((-or the state or province if outside the state of Washington)) where the harvesting is to occur; and

(D) An accurate report or statement from the county assessor of the county where the specialized forest products are to be harvested that provides clear evidence that the permittor named on the verifiable permit is the owner of the parcel named on the permit;

~~((g)))~~ (f) A description by local landmarks of where the harvesting is to occur, or from where the specialized forest products are to be transported;

~~((h)))~~ (g) For ((cedar products, cedar salvage, and)) specialty wood, a copy of a map or aerial photograph, with defined permitted boundaries, included as an attachment to the permit;

~~((i)))~~ (h)(i) For validated permits, a copy of a valid picture identification of the permittee on the copy of the permit form that is presented to the sheriff; and

(ii) For verifiable permits, the unique number assigned to a valid state identification document for both the permittee and permittor; and

~~((j)))~~ (i) The details of any other condition or limitation which the ((permitter)) permittor may specify.

(3) For permits intended to satisfy the requirements of RCW ~~((76.48.210))~~ 76.48.060 (as recodified by this act) relating ((only)) to the sale of huckleberries, the ((specialized forest products)) permit:

~~((a))~~ (a) ((May be obtained from the department of natural resources or the sheriff of any county in the state;

~~((b))~~ Must, in addition to the requirements of subsection (2) of this section, also contain information relating to where the huckleberries were, or plan to be, harvested, and the approximate amount of huckleberries that are going to be offered for sale; and

~~((c))~~ (b) Must include a statement designed to inform the possessor that permission from the landowner is still required prior to the harvesting of huckleberries.

~~((4))~~ Except for the harvesting of Christmas trees, the permit or true copy thereof must be carried by the permittee and the permittee's agents and be available for inspection at all times. For the harvesting of Christmas trees only a single permit or true copy thereof is necessary to be available at the harvest site.))

Sec. 10. RCW 76.48.062 and 1995 c 366 s 15 are each amended to read as follows:

(1) County sheriffs may contract with other entities to serve as authorized agents to ~~((validate specialized forest product))~~ accept and validate permits under section 7 of this act. ((These)) Entities that a county sheriff may contract with include the department, the United States forest service, the bureau of land management((-the department of natural resources)), local police departments, and other entities as decided upon by the county sheriffs' departments.

(2) An entity that contracts with a county sheriff to serve as an authorized agent ~~((to validate specialized forest product permits))~~ under this section may make reasonable efforts to verify the information provided on the permit form such as the ((section, township, and range)) legal description or parcel number of the area where harvesting is to occur.

(3) All processes and requirements applicable to county sheriffs under section 7 of this act also apply to entities contracted under this section.

Sec. 11. RCW 76.48.094 and 2005 c 401 s 7 are each amended to read as follows:

(1) ~~((Cedar or))~~ It is unlawful for any first or secondary specialized forest products buyer, or for any other person, to purchase, take possession of, or retain specialized forest products subsequent to the harvesting and prior to the retail sale of the products unless the supplier of the product displays:

(a) An apparently valid permit required by RCW 76.48.060 (as recodified by this act);

(b) A true copy of an apparently valid permit; or

(c) When applicable:

(i) A bill of lading, authorization, sales invoice, or a government-issued documentation, prepared consistent with RCW 76.48.060 (as recodified by this act) indicating the true origin of the specialized forest products as being outside of Washington;

(ii) If the products were harvested within the operational area defined by a valid forest practices application or notification under chapter 76.09 RCW, a sequentially numbered load ticket generated by the landowner or the landowner's agent that includes, at a

minimum, all information required on a bill of lading and the forest practices application number; or

(iii) A statement claiming the products offered for sale are otherwise exempt from the permit requirements of this chapter under RCW 76.48.100 (as recodified by this act).

(2) In addition to the requirements of RCW 76.48.085 (as recodified by this act), specialty wood processors (~~shall make and maintain a record of the purchase, taking possession, or retention of cedar products, cedar salvage, or specialty wood for at least one year after the date of receipt. The record must be legible and must be made at the time each delivery is made.~~

~~(2) The~~ are required to ensure that a bill of lading (~~must accompany~~), authorization, or sales invoice accompanies all (~~cedar products, cedar salvage, or~~) specialty wood (~~products after the products are received by the cedar or specialty wood processor~~) upon the receipt of the specialty wood into or the shipping of the specialty wood out of the property of the specialty wood processor. (~~The bill of lading must include the specialized forest products permit number or the information provided for in RCW 76.48.075(5) and must also specify:~~

~~(a) The date of transportation;~~

~~(b) The name and address of the first cedar or specialty wood processor or buyer who recorded the specialized forest products information;~~

~~(c) The name and address from where the cedar or specialty wood products are being transported;~~

~~(d) The name of the person receiving the cedar or specialty wood products;~~

~~(e) The address to where the cedar or specialty wood products are being transported;~~

~~(f) The name of the driver;~~

~~(g) The vehicle license number;~~

~~(h) The type of cedar or specialty wood product being shipped; and~~

~~(i) The amount of cedar or specialty wood product being shipped.~~

Sec. 12. RCW 76.48.085 and 2008 c 191 s 4 are each amended to read as follows:

(1) (~~Buyers who purchase specialized forest products or huckleberries~~) (a) First and secondary specialized forest products buyers and huckleberry buyers are required to record:

~~(a)~~ (i) If the person is a first specialized forest product buyer, the permit number or, if applicable, a sequentially numbered load ticket generated by the landowner or the landowner's agent that includes, at a minimum, all information required on a bill of lading and the forest practices application or notification number if the seller claims the specialized forest product in question is exempt from the permit requirements of this chapter, as provided in RCW 76.48.100 (as recodified by this act), due to its harvest within the operational area defined by a valid forest practices application or notification under chapter 76.09 RCW;

~~(b)~~ (ii) Whether or not the products were accompanied by a bill of lading, authorization, or sales invoice;

(iii) The type of specialized forest product purchased, and (~~whether~~), if applicable, an indication that huckleberries were purchased;

~~(c)~~ (iv) The (~~permit holder's~~) name of the seller; (~~and~~

~~(d)~~ (v) The amount of specialized forest product or huckleberries purchased;

(vi) The date of delivery;

(vii) The name of the person driving the vehicle in which the specialized forest products were transported to the buyer, as

confirmed by a visual inspection of the applicable driver's license, unless the buyer has previously recorded the driver's information in an accessible record; and

(viii) Except for transactions involving Christmas trees, the license plate number of the vehicle in which the specialized forest products were transported to the buyer.

~~(2) The buyer or processor~~ (b) First and secondary specialized forest products buyers shall keep a record of this information, along with any accompanying bill of lading, sales invoice, or authorization, for a period of one year from the date of purchase and must make the records available for inspection upon demand by (~~authorized~~) enforcement officials authorized under RCW 76.48.040 (as recodified by this act) to enforce this chapter.

~~(3) The buyer of specialized forest products must record the license plate number of the vehicle transporting the forest products or huckleberries on the bill of sale, as well as the seller's permit number on the bill of sale. This section shall not apply to transactions involving Christmas trees.~~

~~(4)~~ (c) In lieu of a permit number or forest practices identification and load ticket number, the buyer may, when applicable, note that the seller claims that the products offered for sale are exempt from the permit requirements of this chapter under RCW 76.48.100 (as recodified by this act), or were lawfully transported into Washington from out of state. All other information required by this section must be recorded.

(2) This section (~~shall~~) does not apply to buyers of specialized forest products at the retail sales level.

(3) Records of buyers of specialized forest products and huckleberries collected under this section may be made available to colleges and universities for the purpose of research.

Sec. 13. RCW 76.48.098 and 2005 c 401 s 9 are each amended to read as follows:

Every (~~cedar or~~) first or secondary specialized forest products buyer purchasing specialty wood and specialty wood (~~buyer or~~) processor shall prominently display a (~~valid registration certificate,~~) master license issued by the department of licensing under RCW 19.02.070 or a copy (~~thereof~~) of the license (~~obtained from the department of revenue under RCW 82.32.030~~) at each location where the buyer or processor receives (~~cedar products, cedar salvage, or~~) specialty wood if the first or secondary specialized forest products buyer or specialty wood processor is required to possess a license incorporated into the master license system created in chapter 19.02 RCW.

(Permittees shall sell cedar products, cedar salvage, or specialty wood products only to cedar or specialty wood processors displaying registration certificates which appear to be valid.)

Sec. 14. RCW 76.48.030 and 2007 c 392 s 4 are each amended to read as follows:

It is unlawful for any person to:

(1) (~~Harvest~~) Sell or attempt to sell huckleberries, or harvest, possess, or transport specialized forest products (~~as described in RCW 76.48.020, in the quantities specified~~) in violation of RCW 76.48.060 (~~without first obtaining a validated specialized forest products permit~~) (as recodified by this act);

(2) Engage in activities or phases of harvesting specialized forest products not authorized by (~~the~~) a permit under this chapter;

(3) Harvest specialized forest products in any lesser quantities than those specified in RCW 76.48.060 (~~as now or hereafter amended~~) (as recodified by this act) without first obtaining permission from the landowner or (~~his or her duty~~) the landowner's authorized agent or representative; or

(4) Harvest huckleberries in any amount using a rake, mechanical device, or any other method that damages the huckleberry bush.

Sec. 15. RCW 76.48.120 and 2008 c 191 s 7 are each amended to read as follows:

(1) It is unlawful for any person, upon official inquiry, investigation, or other authorized proceedings, to:

(a) Offer as genuine any paper, document, or other instrument in writing purporting to be a specialized forest products permit, ~~((or))~~ true copy ~~((thereof))~~ of a permit, authorization, sales invoice, ~~((or))~~ bill of lading, or other document required under this chapter; or

(b) To make any representation of authority to possess or conduct harvesting or transporting of specialized forest products, or to conduct the sale of huckleberries, ~~((knowing the same to be))~~ with knowledge that the representation of authority is in any manner false, fraudulent, forged, or stolen.

(2) It is unlawful for any person to produce a document for a first or secondary specialized forest products buyer purporting to be a true and genuine permit when delivering or attempting to deliver a specialized forest product with knowledge that the document is in any manner false, fraudulent, forged, or stolen.

(3) Any person who knowingly or intentionally violates this section is guilty of a class C felony punishable by imprisonment in a state correctional institution for a maximum term fixed by the court of not more than five years or by a fine of not more than five thousand dollars, or by both imprisonment and fine.

~~((3) Whenever any law enforcement officer reasonably suspects that a specialized forest products permit or true copy thereof, authorization, sales invoice, or bill of lading is forged, fraudulent, or stolen, it may be retained by the officer until its authenticity can be verified.))~~

Sec. 16. RCW 76.48.130 and 2007 c 392 s 1 are each amended to read as follows:

(1) Except as provided in RCW 76.48.120 (as recodified by this act), a person who violates a provision of this chapter ~~((other than the provisions contained in RCW 76.48.120, as now or hereafter amended,))~~ is guilty of a gross misdemeanor ~~((and upon conviction thereof shall be punished))~~ punishable by a fine of not more than one thousand dollars ~~((or by))~~, imprisonment in the county jail for a term not to exceed one year, or by both a fine and imprisonment.

(2) In any prosecution for a violation of this chapter's requirements to obtain or possess a specialized forest products permit ~~((or))~~ true copy ~~((thereof, an authorization, sales invoice, or))~~ bill of lading, authorization, or sales invoice, it is an affirmative defense, if established by the defendant by a preponderance of the evidence, that:

(a) The specialized forest products were harvested from the defendant's own land; or

(b) The specialized forest products were harvested with the permission of the landowner.

NEW SECTION. Sec. 17. A new section is added to chapter 76.48 RCW to read as follows:

(1) The court presiding over the conviction of any person for a violation of RCW 76.48.120 or 76.48.130 (as recodified by this act) who has been convicted of violating either RCW 76.48.120 or 76.48.130 (as recodified by this act) at least two other times shall order up to a three-year suspension of that person's privilege to obtain a specialized forest products permit under this chapter.

(2) If a court issues a suspension under this section after a conviction involving the misuse of a permit with a specified permittor, the legislature requests that the court notify the permittor listed on the permit of the suspension.

(3) Nothing in this section limits the ability of a court to order the suspension of any privileges related to specialized forest products as a condition of probation regardless of whether the person has any past convictions.

Sec. 18. RCW 76.48.140 and 2005 c 401 s 12 are each amended to read as follows:

All fines collected for violations of ~~((any provision of))~~ this chapter shall be paid into the general fund of the county treasury of the county in which the violation occurred and distributed equally among the district courts in the county, the county sheriff's office, and the ~~((county's general fund))~~ state treasurer. The portion of the revenue provided to the state treasurer must be distributed to the specialized forest products outreach and education account created in section 26 of this act.

Sec. 19. RCW 76.48.040 and 1995 c 366 s 3 are each amended to read as follows:

~~((Agencies charged with the enforcement of this chapter shall include, but not be limited to:))~~ (1) Primary enforcement responsibility of this chapter belongs with county sheriffs. However, other entities that may enforce this chapter include:

(a) The department;

(b) The Washington state patrol ~~((county sheriffs and their deputies,))~~;

(c) County or municipal police forces ~~((;))~~;

(d) Authorized personnel of the United States forest service ~~((;))~~; and

(e) Authorized personnel of the department ~~((s of natural resources and))~~ of fish and wildlife. ~~((Primary enforcement responsibility lies in the county sheriffs and their deputies.))~~

(2) The legislature encourages county sheriffs' offices to enter into interlocal agreements with these other agencies in order to receive additional assistance with their enforcement responsibilities.

NEW SECTION. Sec. 20. A new section is added to chapter 76.48 RCW to read as follows:

(1) A law enforcement officer may take into custody and detain for a reasonable time any specialized forest products, authorizations, sales invoices, bills of lading, other documents, and vehicles in which the specialized forest products were transported if, under official inquiry, investigation, or other authorized proceeding regarding specialized forest products not covered by a valid permit or other acceptable document as provided in this chapter, the inspecting law enforcement officer has probable cause to believe that the specialized forest products were obtained in violation of this chapter until the true origin of the specialized forest products can be determined.

(2) A law enforcement officer may retain a specialized forest products permit, true copy of a permit, authorization, sales invoice, bill of lading, or other document required under this chapter if the officer reasonably suspects that the document is forged in violation of RCW 76.48.120 (as recodified by this act), fraudulent, or stolen, until the authenticity of the document can be verified.

(3)(a) If no arrest is made at the conclusion of the official inquiry, investigation, or other authorized proceeding for a violation of this chapter or another state law, all materials detained under this section must be returned to the person or persons from whom the materials were taken.

(b)(i) If an arrest does follow the inquiry, investigation, or authorized proceeding, and the law enforcement officer has probable cause to believe that a person is selling or attempting to sell huckleberries, or is harvesting, in possession of, or transporting specialized forest products in violation of this chapter, any specialized forest products or huckleberries found at the time of arrest may be seized.

(ii) If the specialized forest product triggering the arrest is specialty wood, the law enforcement officer may also seize any equipment, vehicles, tools, or paperwork associated with the arrest.

(c) Materials seized under this chapter are subject to the provisions of RCW 76.48.110 (as recodified by this act).

Sec. 21. RCW 76.48.110 and 2008 c 191 s 6 are each amended to read as follows:

(1) ~~(Whenever any law enforcement officer has probable cause to believe that a person is harvesting or is in possession of or transporting specialized forest products, or selling or attempting to sell huckleberries, in violation of the provisions of this chapter, he or she may, at the time of making an arrest, seize and take possession of any specialized forest products or huckleberries found.~~

~~If the specialized forest product is a cedar product, cedar salvage, or specialty wood, at the time of making an arrest the law enforcement officer may seize and take possession of any equipment, vehicles, tools, or paperwork. The law enforcement officer shall provide)~~ (a) Reasonable protection must be provided for ~~((the))~~ any equipment, vehicles, tools, paperwork, huckleberries, or specialized forest products ~~((involved))~~ seized under section 20 of this act during the period of ~~((litigation or he or she shall dispose of the equipment, vehicles, tools, paperwork, or specialized forest products at the discretion or order of))~~ adjudication unless the court before which the arrested person is ordered to appear orders the disposal of any or all of the seized materials.

(b) Given the perishable nature of huckleberries and specialized forest products, the seizing agency may sell the product at fair market value and retain all proceeds until a final disposition of the case has been reached.

(2) Upon any disposition of the case by the court, the court shall:

~~(a) Make a reasonable effort to return ((the equipment, vehicles, tools, paperwork, huckleberries, or specialized forest products)) all materials seized under section 20 of this act to its ((rightful)) lawful owner or owners; or~~

~~(b) Order the disposal of or return of any or all materials seized under this section, including tools, vehicles, equipment, paperwork, or specialized forest products.~~

~~(3) If the court orders the disposal of seized materials, it may:~~

~~(a) Pay the proceeds of any sale of seized specialized forest products or huckleberries, less any reasonable expenses of the sale, to the ((rightful)) lawful owner; or~~

~~(b) Pay the proceeds of any sale of seized tools, equipment, or vehicles, less any reasonable expenses of the sale or, if applicable, towards any outstanding court costs, and then to the lawful owner or owners.~~

(4) If, for any reason, the proceeds of ~~((the))~~ any sale of materials seized under this section cannot be ~~((disposed of))~~ provided to the ~~((rightful))~~ lawful owner, the proceeds of the sale, less ~~((the))~~ reasonable expenses ~~((of))~~ relating to the sale, shall be paid to the treasurer of the county in which the violation occurred ~~((The county treasurer shall deposit the same in))~~ for deposit into the county general fund and for distribution equally among the district courts in the county, the county sheriff's office, and the state treasurer. The portion of the revenue provided to the state treasurer must be distributed to the specialized forest products outreach and education account created in section 26 of this act.

(5) The owner or owners of materials seized under section 20 of this act must be offered an opportunity to appeal an order for the disposal of the seized materials.

(6) The return of ((the equipment, vehicles, tools, paperwork, or specialized forest products)) materials seized under section 20 of this

act, or the payment of the proceeds of any sale of products seized to the owner, shall not preclude the court from imposing any fine or penalty upon the violator for the violation of the provisions of this chapter.

Sec. 22. RCW 76.48.100 and 2005 c 401 s 10 are each amended to read as follows:

~~((The provisions of))~~ Except as otherwise conditioned, this chapter ((do)) does not apply to:

(1) Nursery grown products.

(2) The following products when harvested within the operational areas as defined by a valid forest practices application or notification under chapter 76.09 RCW, and when the person harvesting is able to provide a sequentially numbered load ticket provided by the landowner or the landowner's agent that includes, at a minimum, all information required on a bill of lading and the forest practices application or notification number, or under a contract or permit issued by an agency of the United States government:

~~(a) Logs ((except as included in the definition of "cedar salvage" under RCW 76.48.020));~~

~~(b) Specialty wood;~~

~~(c) Cut or picked evergreen foliage;~~

~~(d) Poles(;) ;~~

~~(e) Pilings(;) ; or~~

~~(f) Other major forest products from which substantially all of the limbs and branches have been removed(, specialty wood, and cedar salvage when harvested concurrently with timber stands (a) under an approved forest practices application or notification, or (b) under a contract or permit issued by an agency of the United States government)).~~

(3) ~~((The activities of a))~~ Noncommercial harvest, transportation, or possession by the landowner, ((his or her)) the landowner's agent((, or)) representative, ((or of a lessee of land in carrying on noncommercial property management, maintenance, or improvements on or in connection with the land of the landowner)) or lessee of specialized forest products originating from property belonging to the landowner.

(4) Harvest, transportation, or possession of specialized forest products by:

~~(a) A governmental entity or the entity's agent for the purposes of clearing or maintaining the governmental entity's right-of-way or easement; or~~

~~(b) A public or regulated utility or the utility's agent for the purpose of clearing or maintaining the utility's right-of-way or easement.~~

Sec. 23. RCW 76.48.210 and 2008 c 191 s 1 are each amended to read as follows:

(1) ~~((Except as otherwise provided in this section, no person may sell, or attempt to sell, any amount of raw or unprocessed huckleberries without first obtaining a specialized forest products permit as provided in RCW 76.48.060, regardless if the huckleberries were harvested with the consent of the landowner.~~

~~(2) If the possessor of the huckleberries being offered for sale is able to show that the huckleberries originated on land owned by the United States forest service, then the requirements of this section may be satisfied with the display of a valid permit from the United States forest service that lawfully entitles the possessor to harvest the huckleberries in question.~~

~~((3))~~ Nothing in ((this section)) RCW 76.48.060 (as recodified by this act) creates a requirement that a specialized forest products permit is required for an individual to harvest, possess, or transport huckleberries.

~~((+))~~ (2) Compliance with ~~(this section)~~ RCW 76.48.060 (as recodified by this act) allows an individual to sell, or offer for sale, raw or unprocessed huckleberries. Possession of a specialized forest products permit does not create a right or privilege to harvest huckleberries. Huckleberries may be harvested only with the permission of the landowner and under the terms and conditions established between the landowner and the harvester.

Sec. 24. RCW 76.48.150 and 2005 c 401 s 13 are each amended to read as follows:

(1) Subject to the availability of funds in the specialized forest products outreach and education account established under section 26 of this act, the department ~~((of natural resources is the designated agency to develop and print the specialized forest products permit and distribute it to the county sheriffs. In addition, the department of natural resources))~~ shall develop educational material ~~((and other))~~, including printed information, for law enforcement, forest landowners, and specialized forest products ~~((harvesters))~~ permittees, buyers, and processors specific to this chapter.

(2) The department is encouraged to foster partnerships with federal agencies, other state agencies, universities, local governments, and private interests in order to minimize educational and outreach expenses.

Sec. 25. RCW 76.48.200 and 2008 c 191 s 8 are each amended to read as follows:

(1) Minority groups have long been participants in the specialized forest products and huckleberry harvesting industry. The legislature encourages agencies serving minority communities, community-based organizations, refugee centers, social service agencies, agencies and organizations with expertise in the specialized forest products and huckleberry harvesting ~~((industry))~~ industries, and other interested groups to work cooperatively to accomplish the following purposes:

~~((+))~~ (a) To provide assistance and make referrals on translation services and to assist in translating educational materials, laws, and rules regarding specialized forest products and huckleberries;

~~((+))~~ (b) To hold clinics to teach techniques for effective picking; and

~~((+))~~ (c) To work with both minority and nonminority permittees in order to protect resources and foster understanding between minority and nonminority permittees.

(2) To the extent practicable within their existing resources, the department, the state commission on ~~((Asian-American))~~ Asian Pacific American affairs created in RCW 43.117.030, and the state commission on Hispanic affairs created in RCW 43.115.020 ~~((and the department of natural resources))~~ are encouraged to coordinate ~~((this effort))~~ efforts under this chapter.

NEW SECTION. Sec. 26. A new section is added to chapter 76.48 RCW to read as follows:

The specialized forest products outreach and education account is created in the custody of the state treasurer. All receipts from RCW 76.48.140 and 76.48.110 (as recodified by this act), any legislative appropriations, private donations, or any other private or public source directed to the account must be deposited in the account. Expenditures from the account may only be used by the department for funding activities under RCW 76.48.150 and 76.48.200 (as recodified by this act). Only the commissioner of public lands or the commissioner's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 27. RCW 76.48.902 and 1979 ex.s. c 94 s 17 are each amended to read as follows:

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

Sec. 28. RCW 76.48.910 and 1967 ex.s. c 47 s 16 are each amended to read as follows:

This chapter is not intended to repeal, supersede, or modify any provision of existing law.

NEW SECTION. Sec. 29. The following sections are codified or recodified in chapter 76.48 RCW in the following order:

RCW 76.48.010;
RCW 76.48.020;
RCW 76.48.060;
RCW 76.48.080;
Section 6 of this act;
Section 7 of this act;
Section 8 of this act;
RCW 76.48.050;
RCW 76.48.062;
RCW 76.48.094;
RCW 76.48.085;
RCW 76.48.098;
RCW 76.48.030;
RCW 76.48.120;
RCW 76.48.130;
section 17 of this act;
RCW 76.48.140;
RCW 76.48.040;
Section 20 of this act;
RCW 76.48.110;
RCW 76.48.100;
RCW 76.48.210;
RCW 76.48.150;
RCW 76.48.200;
Section 26 of this act;
RCW 76.48.900;
RCW 76.48.902; and
RCW 76.48.910.

NEW SECTION. Sec. 30. The following acts or parts of acts are each repealed:

1.1.1.1. RCW 76.48.070 (Transporting or possessing cedar or other specialized forest products--Requirements) and 2005 c 401 s 4, 1995 c 366 s 6, 1992 c 184 s 3, 1979 ex.s. c 94 s 6, 1977 ex.s. c 147 s 6, & 1967 ex.s. c 47 s 8;

1.1.1.2. RCW 76.48.086 (Records of buyers available for research) and 2008 c 191 s 5 & 1995 c 366 s 16;

1.1.1.3. RCW 76.48.096 (Obtaining products from suppliers not having specialized forest products permit unlawful) and 2005 c 401 s 8, 1995 c 366 s 8, 1979 ex.s. c 94 s 10, & 1977 ex.s. c 147 s 12; and

(4) RCW 76.48.075 (Specialized forest products from out-of-state) and 2005 c 401 s 5, 1995 c 366 s 7, & 1979 ex.s. c 94 s 15.

NEW SECTION. Sec. 31. RCW 76.48.901 is decodified."

On page 1, line 1 of the title, after "76.48 RCW;" strike the remainder of the title and insert "amending RCW 76.48.010, 76.48.020, 76.48.060, 76.48.080, 76.48.050, 76.48.062, 76.48.094, 76.48.085, 76.48.098, 76.48.030, 76.48.120, 76.48.130, 76.48.140, 76.48.040, 76.48.110, 76.48.100, 76.48.210, 76.48.150, 76.48.200, 76.48.902, and 76.48.910; adding new sections to chapter 76.48 RCW; creating a new section; recodifying RCW 76.48.010, 76.48.020, 76.48.060, 76.48.080, 76.48.050, 76.48.062, 76.48.094,

76.48.085, 76.48.098, 76.48.030, 76.48.120, 76.48.130, 76.48.140, 76.48.040, 76.48.110, 76.48.100, 76.48.210, 76.48.150, 76.48.200, 76.48.900, 76.48.902, and 76.48.910; decodifying RCW 76.48.901; repealing RCW 76.48.070, 76.48.086, 76.48.096, and 76.48.075; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1038 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Orcutt 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 Substitute House Bill No. 1038, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1038, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, 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.

Excused: Representative Flannigan.

SUBSTITUTE HOUSE BILL NO. 1038, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 7, 2009

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1052 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.41.010 and 2001 c 300 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder.

(2) "Pistol" means any firearm with a barrel less than sixteen inches in length, or is designed to be held and fired by the use of a single hand.

(3) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(4) "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

(5) "Shotgun" means a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(6) "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

(7) "Machine gun" means any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

(8) "Antique firearm" means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(9) "Loaded" means:

(a) There is a cartridge in the chamber of the firearm;

(b) Cartridges are in a clip that is locked in place in the firearm;

(c) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver;

(d) There is a cartridge in the tube or magazine that is inserted in the action; or

(e) There is a ball in the barrel and the firearm is capped or primed if the firearm is a muzzle loader.

(10) "Dealer" means a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

(11) "Crime of violence" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or

criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, burglary in the second degree, residential burglary, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to June 6, 1996, which is comparable to a felony classified as a crime of violence in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a crime of violence under (a) or (b) of this subsection.

(12) "Serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any crime of violence;

(b) Any felony violation of the uniform controlled substances act, chapter 69.50 RCW, that is classified as a class B felony or that has a maximum term of imprisonment of at least ten years;

(c) Child molestation in the second degree;

(d) Incest when committed against a child under age fourteen;

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Drive-by shooting;

(j) Sexual exploitation;

(k) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(l) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(m) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under RCW 9.94A.030;

(n) Any other felony with a deadly weapon verdict under RCW 9.94A.602; or

(o) Any felony offense in effect at any time prior to June 6, 1996, that is comparable to a serious offense, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious offense.

(13) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

(14) "Felony" means any felony offense under the laws of this state or any federal or out-of-state offense comparable to a felony offense under the laws of this state.

(15) "Sell" refers to the actual approval of the delivery of a firearm in consideration of payment or promise of payment of a certain price in money.

(16) "Barrel length" means the distance from the bolt face of a closed action down the length of the axis of the bore to the crown of the muzzle, or in the case of a barrel with attachments to the end of any legal device permanently attached to the end of the muzzle.

(17) "Family or household member" means "family" or "household member" as used in RCW 10.99.020.

(18) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

(19) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

NEW SECTION. Sec. 2. A new section is added to chapter 9.41 RCW to read as follows:

It is a class C felony for any person who is not a citizen of the United States to carry or possess any firearm, unless the person: (1) Is a lawful permanent resident; (2) has obtained a valid alien firearm license pursuant to section 3 of this act; or (3) meets the requirements of section 4 of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 9.41 RCW to read as follows:

(1) In order to obtain an alien firearm license, a nonimmigrant alien residing in Washington must apply to the sheriff of the county in which he or she resides.

(2) The sheriff of the county shall within sixty days after the filing of an application of a nonimmigrant alien residing in the state of Washington, issue an alien firearm license to such person to carry or possess a firearm for the purposes of hunting and sport shooting. The license shall be good for two years. The issuing authority shall not refuse to accept completed applications for alien firearm licenses during regular business hours. An application for a license may not be denied, unless the applicant's alien firearm license is in a revoked status, or the applicant:

(a) Is ineligible to possess a firearm under the provisions of RCW 9.41.040 or 9.41.045;

(b) Is subject to a court order or injunction regarding firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590;

(c) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a felony offense; or

(d) Has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor.

No license application shall be granted to a nonimmigrant alien convicted of a felony unless the person has been granted relief from disabilities by the attorney general under 18 U.S.C. Sec. 925(c), or unless RCW 9.41.040 (3) or (4) applies.

(3) The sheriff shall check with the national crime information center, the Washington state patrol electronic database, the department of social and health services electronic database, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess a firearm.

(4) The license application shall bear the full name, residential address, telephone number at the option of the applicant, date and place of birth, race, gender, description, not more than two complete sets of fingerprints, and signature of the applicant, a copy of the applicant's passport and visa showing the applicant is in the country legally, and a valid Washington hunting license or documentation that the applicant is a member of a sport shooting club.

A signed application for an alien firearm license shall constitute a waiver of confidentiality and written request that the department of social and health services, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for an alien firearm license to an inquiring court or law enforcement agency.

The application for an original license shall include a complete set of fingerprints to be forwarded to the Washington state patrol.

The license and application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. A state license is not a defense to a federal prosecution.

The license shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law. The application shall contain questions about the applicant's eligibility under RCW 9.41.040 to possess a firearm. The nonimmigrant alien applicant shall be required to produce a passport and visa as evidence of being in the country legally.

The license may be in triplicate or in a form to be prescribed by the department of licensing. The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing the license.

The department of licensing shall make available to law enforcement and corrections agencies, in an online format, all information received under this section.

(5) The sheriff has the authority to collect a nonrefundable fee, paid upon application, for the two-year license. The fee shall be fifty dollars plus additional charges imposed by the Washington state patrol and the federal bureau of investigation that are passed on to the applicant. No other state or local branch or unit of government may impose any additional charges on the applicant for the issuance of the license. The fee shall be retained by the sheriff.

(6) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the sheriff.

(7) A political subdivision of the state shall not modify the requirements of this section, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section.

(8) A person who knowingly makes a false statement regarding citizenship or identity on an application for an alien firearm license is guilty of false swearing under RCW 9A.72.040. In addition to any other penalty provided for by law, the alien firearm license of a person who knowingly makes a false statement shall be revoked, and the person shall be permanently ineligible for an alien firearm license.

NEW SECTION. Sec. 4. A new section is added to chapter 9.41 RCW to read as follows:

(1) A nonimmigrant alien, who is not a resident of Washington or a citizen of Canada, may carry or possess any firearm without having first obtained an alien firearm license if the nonimmigrant alien possesses:

(a) A valid passport and visa showing he or she is in the country legally;

(b) If required under federal law, an approved United States department of justice ATF-6 NIA application and permit for temporary importation of firearms and ammunition by nonimmigrant aliens; and

(c)(i) A valid hunting license issued by a state or territory of the United States; or

(ii) An invitation to participate in a trade show or sport shooting event being conducted in this state, another state, or another country that is contiguous with this state.

(2) A citizen of Canada may carry or possess any firearm so long as he or she possesses:

(a) Valid documentation as required for entry into the United States;

(b) If required under federal law, an approved United States department of justice ATF-6 NIA application and permit for temporary importation of firearms and ammunition by nonimmigrant aliens; and

(c)(i) A valid hunting license issued by a state or territory of the United States; or

(ii) An invitation to participate in a trade show or sport shooting event being conducted in this state, another state, or another country that is contiguous with this state.

(3) For purposes of subsections (1) and (2) of this section, the firearms may only be possessed for the purpose of using them in the hunting of game while such persons are in the act of hunting, or while on a hunting trip, or while such persons are competing in a bona fide trap or skeet shoot or any other organized contest where rifles, pistols, or shotguns are used. Nothing in this section shall be construed to allow aliens to hunt or fish in this state without first having obtained a regular hunting or fishing license.

Sec. 5. RCW 9.41.070 and 2002 c 302 s 703 are each amended to read as follows:

(1) The chief of police of a municipality or the sheriff of a county shall within thirty days after the filing of an application of any person, issue a license to such person to carry a pistol concealed on his or her person within this state for five years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. The issuing authority shall not refuse to accept completed applications for concealed pistol licenses during regular business hours.

The applicant's constitutional right to bear arms shall not be denied, unless:

(a) He or she is ineligible to possess a firearm under the provisions of RCW 9.41.040 or 9.41.045;

(b) The applicant's concealed pistol license is in a revoked status;

(c) He or she is under twenty-one years of age;

(d) He or she is subject to a court order or injunction regarding firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590;

(e) He or she is free on bond or personal recognizance pending trial, appeal, or sentencing for a felony offense;

(f) He or she has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or

(g) He or she has been ordered to forfeit a firearm under RCW 9.41.098(1)(e) within one year before filing an application to carry a pistol concealed on his or her person.

No person convicted of a felony may have his or her right to possess firearms restored or his or her privilege to carry a concealed pistol restored, unless the person has been granted relief from disabilities by the ((secretary of the treasury)) attorney general under 18 U.S.C. Sec. 925(c), or RCW 9.41.040 (3) or (4) applies.

(2) The issuing authority shall check with the national crime information center, the Washington state patrol electronic database, the department of social and health services electronic database, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess a firearm and therefore ineligible for a concealed pistol license. This subsection applies whether the applicant is applying for a new concealed pistol license or to renew a concealed pistol license.

(3) Any person whose firearms rights have been restricted and who has been granted relief from disabilities by the ~~((secretary of the treasury))~~ attorney general under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec. 921(a)(20)(A) shall have his or her right to acquire, receive, transfer, ship, transport, carry, and possess firearms in accordance with Washington state law restored except as otherwise prohibited by this chapter.

(4) The license application shall bear the full name, residential address, telephone number at the option of the applicant, date and place of birth, race, gender, description, ~~((not more than two))~~ a complete set ~~((s))~~ of fingerprints, and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. A signed application for a concealed pistol license shall constitute a waiver of confidentiality and written request that the department of social and health services, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for a concealed pistol license to an inquiring court or law enforcement agency.

The application for an original license shall include two complete sets of fingerprints to be forwarded to the Washington state patrol.

The license and application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. A state license is not a defense to a federal prosecution.

The license shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law. The application shall contain questions about the applicant's eligibility under RCW 9.41.040 to possess a pistol, the applicant's place of birth, and whether the applicant is a United States citizen. The applicant shall not be required to produce a birth certificate or other evidence of citizenship. A person who is not a citizen of the United States shall, if applicable, meet the additional requirements of ~~((RCW 9.41.170))~~ section 3 of this act and produce proof of compliance with ~~((RCW 9.41.170))~~ section 3 of this act upon application. The license ~~((shall))~~ may be in triplicate ~~((and))~~ or in a form to be prescribed by the department of licensing.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing the license.

The department of licensing shall make available to law enforcement and corrections agencies, in an on-line format, all information received under this subsection.

(5) The nonrefundable fee, paid upon application, for the original five-year license shall be thirty-six dollars plus additional charges imposed by the Federal Bureau of Investigation that are

passed on to the applicant. No other state or local branch or unit of government may impose any additional charges on the applicant for the issuance of the license.

The fee shall be distributed as follows:

(a) Fifteen dollars shall be paid to the state general fund;

(b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed;

(c) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and

(d) Three dollars to the firearms range account in the general fund.

(6) The nonrefundable fee for the renewal of such license shall be thirty-two dollars. No other branch or unit of government may impose any additional charges on the applicant for the renewal of the license.

The renewal fee shall be distributed as follows:

(a) Fifteen dollars shall be paid to the state general fund;

(b) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and

(c) Three dollars to the firearms range account in the general fund.

(7) The nonrefundable fee for replacement of lost or damaged licenses is ten dollars to be paid to the issuing authority.

(8) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the issuing authority.

(9) A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection (6) of this section. The fee shall be distributed as follows:

(a) Three dollars shall be deposited in the state wildlife ~~((fund))~~ account and used exclusively first for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law, and subsequently the support of volunteer instructors in the basic firearms safety training program conducted by the department of fish and wildlife. The pamphlet shall be given to each applicant for a license; and

(b) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(10) Notwithstanding the requirements of subsections (1) through (9) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section. However, a temporary emergency license issued under this subsection shall not exempt the holder of the license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.

(11) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section.

(12) A person who knowingly makes a false statement regarding citizenship or identity on an application for a concealed pistol license is guilty of false swearing under RCW 9A.72.040. In addition to any other penalty provided for by law, the concealed pistol license of a person who knowingly makes a false statement shall be revoked, and the person shall be permanently ineligible for a concealed pistol license.

(13) A person may apply for a concealed pistol license:

(a) To the municipality or to the county in which the applicant resides if the applicant resides in a municipality;

(b) To the county in which the applicant resides if the applicant resides in an unincorporated area; or

(c) Anywhere in the state if the applicant is a nonresident.

Sec. 6. RCW 9.41.097 and 2005 c 274 s 202 are each amended to read as follows:

(1) The department of social and health services, mental health institutions, and other health care facilities shall, upon request of a court or law enforcement agency, supply such relevant information as is necessary to determine the eligibility of a person to possess a pistol or to be issued a concealed pistol license under RCW 9.41.070 or to purchase a pistol under RCW 9.41.090.

(2) Mental health information received by: (a) The department of licensing pursuant to RCW 9.41.047 or ~~((9.41.170))~~ section 3 of this act; (b) an issuing authority pursuant to RCW 9.41.047 or 9.41.070; (c) a chief of police or sheriff pursuant to RCW 9.41.090 or ~~((9.41.170))~~ section 3 of this act; (d) a court or law enforcement agency pursuant to subsection (1) of this section, shall not be disclosed except as provided in RCW 42.56.240(4).

Sec. 7. RCW 9.41.0975 and 1996 c 295 s 9 are each amended to read as follows:

(1) The state, local governmental entities, any public or private agency, and the employees of any state or local governmental entity or public or private agency, acting in good faith, are immune from liability:

(a) For failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful;

(b) For preventing the sale or transfer of a firearm to a person who may lawfully receive or possess a firearm;

(c) For issuing a concealed pistol license or alien firearm license to a person ineligible for such a license;

(d) For failing to issue a concealed pistol license or alien firearm license to a person eligible for such a license;

(e) For revoking or failing to revoke an issued concealed pistol license or alien firearm license;

(f) For errors in preparing or transmitting information as part of determining a person's eligibility to receive or possess a firearm, or eligibility for a concealed pistol license or alien firearm license;

(g) For issuing a dealer's license to a person ineligible for such a license; or

(h) For failing to issue a dealer's license to a person eligible for such a license.

(2) An application may be made to a court of competent jurisdiction for a writ of mandamus:

(a) Directing an issuing agency to issue a concealed pistol license or alien firearm license wrongfully refused;

(b) Directing a law enforcement agency to approve an application to purchase wrongfully denied;

(c) Directing that erroneous information resulting either in the wrongful refusal to issue a concealed pistol license or alien firearm license or in the wrongful denial of a purchase application be corrected; or

(d) Directing a law enforcement agency to approve a dealer's license wrongfully denied.

The application for the writ may be made in the county in which the application for a concealed pistol license or alien firearm license or to purchase a pistol was made, or in Thurston county, at the discretion of the petitioner. A court shall provide an expedited hearing for an application brought under this subsection (2) for a writ of mandamus. A person granted a writ of mandamus under this subsection (2) shall be awarded reasonable attorneys' fees and costs.

NEW SECTION. Sec. 8. RCW 9.41.170 (Alien's license to carry firearms--Exception) and 1996 c 295 s 11, 1994 c 190 s 1, 1979 c 158 s 3, 1969 ex.s. c 90 s 1, & 1953 c 109 s 1 are each repealed."

On page 1, line 2 of the title, after "countries;" strike the remainder of the title and insert "amending RCW 9.41.010, 9.41.070, 9.41.097, and 9.41.0975; adding new sections to chapter 9.41 RCW; repealing RCW 9.41.170; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1052 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Moeller 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 Second Substitute House Bill No. 1052, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1052, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, 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.

Excused: Representative Flannigan.

SECOND SUBSTITUTE HOUSE BILL NO. 1052, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 7, 2009

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1071 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 71.05.210 and 2000 c 94 s 6 are each amended to read as follows:

Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility (1) shall, within twenty-four hours of his or her admission or acceptance at the facility, be examined and evaluated by (a) a licensed physician who may be assisted by a physician assistant according to chapter 18.71A RCW ~~((or))~~ and a mental health professional, (b) an advanced registered nurse practitioner according to chapter 18.79 RCW and a mental health professional, or (c) a licensed physician and a psychiatric advanced registered nurse practitioner and (2) shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.340, or ~~((71.05.370))~~ 71.05.217, the individual may refuse psychiatric medications, but may not refuse: ~~((H))~~ (a) Any other medication previously prescribed by a person licensed under Title 18 RCW; or ~~((Z))~~ (b) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right of such refusal. The person shall be detained up to seventy-two hours, if, in the opinion of the professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for seventy-two hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

If, after examination and evaluation, the mental health professional and licensed physician ~~((and mental health professional))~~ or psychiatric advanced registered nurse practitioner determine that the initial needs of the person would be better served by placement in a chemical dependency treatment facility, then the person shall be referred to an approved treatment program defined under RCW 70.96A.020.

An evaluation and treatment center admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the ~~((county))~~ designated mental health professional and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

"**Sec. 2.** RCW 71.05.230 and 2006 c 333 s 302 are each amended to read as follows:

A person detained for seventy-two hour evaluation and treatment may be detained for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative to involuntary intensive treatment. There shall be no fee for filing petitions for fourteen days of involuntary intensive treatment. A petition may only be filed if the following conditions are met:

- (1) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and finds that the condition is caused by mental disorder and either results in a likelihood of serious harm, or results in the detained person being gravely disabled and are prepared to testify those conditions are met; and
- (2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The facility providing intensive treatment is certified to provide such treatment by the department; and

(4) The professional staff of the agency or facility or the designated mental health professional has filed a petition for fourteen day involuntary detention or a ninety day less restrictive alternative with the court. The petition must be signed either by:

- (a) Two physicians ~~((or by))~~;
- (b) One physician and a mental health professional ~~((who))~~;
- (c) Two psychiatric advanced registered nurse practitioners;
- (d) One psychiatric advanced registered nurse practitioner and a mental health professional; or

(e) A physician and a psychiatric advanced registered nurse practitioner. The persons signing the petition must have examined the person. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, or is gravely disabled and shall set forth the less restrictive alternative proposed by the facility; and

(5) A copy of the petition has been served on the detained person, his or her attorney and his or her guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The court has ordered a fourteen day involuntary intensive treatment or a ninety day less restrictive alternative treatment after a probable cause hearing has been held pursuant to RCW 71.05.240; and

(8) At the conclusion of the initial commitment period, the professional staff of the agency or facility or the designated mental health professional may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment as provided in RCW 71.05.290; and

(9) If the hospital or facility designated to provide outpatient treatment is other than the facility providing involuntary treatment, the outpatient facility so designated has agreed to assume such responsibility.

"**Sec. 3.** RCW 71.05.290 and 2008 c 213 s 7 are each amended to read as follows:

(1) At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his or her professional designee or the designated mental health professional may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2) The petition shall summarize the facts which support the need for further confinement and shall be supported by affidavits signed by:

- (a) Two examining physicians ~~((or by))~~;
- (b) One examining physician and examining mental health professional;
- (c) Two psychiatric advanced registered nurse practitioners;
- (d) One psychiatric advanced registered nurse practitioner and a mental health professional; or

(e) An examining physician and an examining psychiatric advanced registered nurse practitioner. The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.086(4), then the professional person in charge of the treatment facility or his or her professional designee or the designated mental health professional may directly file a petition for one hundred eighty day treatment under RCW 71.05.280(3). No petition for initial detention or fourteen day detention is required before such a petition may be filed.

Sec. 4. RCW 71.05.300 and 2008 c 213 s 8 are each amended to read as follows:

(1) The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. At the time of filing such petition, the clerk shall set a time for the person to come before the court on the next judicial day after the day of filing unless such appearance is waived by the person's attorney, and the clerk shall notify the designated mental health professional. The designated mental health professional shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, the prosecuting attorney, and the regional support network administrator, and provide a copy of the petition to such persons as soon as possible. The regional support network administrator or designee may review the petition and may appear and testify at the full hearing on the petition.

(2) At the time set for appearance the detained person shall be brought before the court, unless such appearance has been waived and the court shall advise him or her of his or her right to be represented by an attorney and of his or her right to a jury trial. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, psychiatric advanced registered nurse practitioner, psychologist, or psychiatrist, designated by the detained person to examine and testify on behalf of the detained person.

(3) The court may, if requested, also appoint a professional person as defined in RCW 71.05.020 to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person. In the case of a person with a developmental disability who has been determined to be incompetent pursuant to RCW 10.77.086(4), then the appointed professional person under this section shall be a developmental disabilities professional.

(4) The court shall also set a date for a full hearing on the petition as provided in RCW 71.05.310.

Sec. 5. RCW 71.05.360 and 2007 c 375 s 14 are each amended to read as follows:

(1)(a) Every person involuntarily detained or committed under the provisions of this chapter shall be entitled to all the rights set forth in this chapter, which shall be prominently posted in the facility, and shall retain all rights not denied him or her under this chapter except as chapter 9.41 RCW may limit the right of a person to purchase or possess a firearm or to qualify for a concealed pistol license.

(b) No person shall be presumed incompetent as a consequence of receiving an evaluation or voluntary or involuntary treatment for a mental disorder, under this chapter or any prior laws of this state

dealing with mental illness. Competency shall not be determined or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

(c) Any person who leaves a public or private agency following evaluation or treatment for mental disorder shall be given a written statement setting forth the substance of this section.

(2) Each person involuntarily detained or committed pursuant to this chapter shall have the right to adequate care and individualized treatment.

(3) The provisions of this chapter shall not be construed to deny to any person treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(4) Persons receiving evaluation or treatment under this chapter shall be given a reasonable choice of an available physician, psychiatric advanced registered nurse practitioner, or other professional person qualified to provide such services.

(5) Whenever any person is detained for evaluation and treatment pursuant to this chapter, both the person and, if possible, a responsible member of his or her immediate family, personal representative, guardian, or conservator, if any, shall be advised as soon as possible in writing or orally, by the officer or person taking him or her into custody or by personnel of the evaluation and treatment facility where the person is detained that unless the person is released or voluntarily admits himself or herself for treatment within seventy-two hours of the initial detention:

(a) A judicial hearing in a superior court, either by a judge or court commissioner thereof, shall be held not more than seventy-two hours after the initial detention to determine whether there is probable cause to detain the person after the seventy-two hours have expired for up to an additional fourteen days without further automatic hearing for the reason that the person is a person whose mental disorder presents a likelihood of serious harm or that the person is gravely disabled;

(b) The person has a right to communicate immediately with an attorney; has a right to have an attorney appointed to represent him or her before and at the probable cause hearing if he or she is indigent; and has the right to be told the name and address of the attorney that the mental health professional has designated pursuant to this chapter;

(c) The person has the right to remain silent and that any statement he or she makes may be used against him or her;

(d) The person has the right to present evidence and to cross-examine witnesses who testify against him or her at the probable cause hearing; and

(e) The person has the right to refuse psychiatric medications, including antipsychotic medication beginning twenty-four hours prior to the probable cause hearing.

(6) When proceedings are initiated under RCW 71.05.153, no later than twelve hours after such person is admitted to the evaluation and treatment facility the personnel of the evaluation and treatment facility or the designated mental health professional shall serve on such person a copy of the petition for initial detention and the name, business address, and phone number of the designated attorney and shall forthwith commence service of a copy of the petition for initial detention on the designated attorney.

(7) The judicial hearing described in subsection (5) of this section is hereby authorized, and shall be held according to the provisions of subsection (5) of this section and rules promulgated by the supreme court.

(8) At the probable cause hearing the detained person shall have the following rights in addition to the rights previously specified:

- (a) To present evidence on his or her behalf;
- (b) To cross-examine witnesses who testify against him or her;
- (c) To be proceeded against by the rules of evidence;
- (d) To remain silent;
- (e) To view and copy all petitions and reports in the court file.

(9) ~~((The physician-patient privilege or the psychologist-client privilege shall be))~~ Privileges between patients and physicians, psychologists, or psychiatric advanced registered nurse practitioners are deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under this chapter, the privileges shall be waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained person for purposes of a proceeding under this chapter. Upon motion by the detained person or on its own motion, the court shall examine a record or testimony sought by a petitioner to determine whether it is within the scope of the waiver.

The record maker shall not be required to testify in order to introduce medical or psychological records of the detained person so long as the requirements of RCW 5.45.020 are met except that portions of the record which contain opinions as to the detained person's mental state must be deleted from such records unless the person making such conclusions is available for cross-examination.

(10) Insofar as danger to the person or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights:

- (a) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;
- (b) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;
- (c) To have access to individual storage space for his or her private use;
- (d) To have visitors at reasonable times;
- (e) To have reasonable access to a telephone, both to make and receive confidential calls, consistent with an effective treatment program;
- (f) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;
- (g) To discuss treatment plans and decisions with professional persons;
- (h) Not to consent to the administration of antipsychotic medications and not to thereafter be administered antipsychotic medications unless ordered by a court under RCW 71.05.217 or pursuant to an administrative hearing under RCW 71.05.215;
- (i) Not to consent to the performance of electroconvulsant therapy or surgery, except emergency life-saving surgery, unless ordered by a court under RCW 71.05.217;
- (j) Not to have psychosurgery performed on him or her under any circumstances;
- (k) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue.

(11) Every person involuntarily detained shall immediately be informed of his or her right to a hearing to review the legality of his or her detention and of his or her right to counsel, by the professional person in charge of the facility providing evaluation and treatment,

or his or her designee, and, when appropriate, by the court. If the person so elects, the court shall immediately appoint an attorney to assist him or her.

(12) A person challenging his or her detention or his or her attorney shall have the right to designate and have the court appoint a reasonably available independent physician, psychiatric advanced registered nurse practitioner, or licensed mental health professional to examine the person detained, the results of which examination may be used in the proceeding. The person shall, if he or she is financially able, bear the cost of such expert examination, otherwise such expert examination shall be at public expense.

(13) Nothing contained in this chapter shall prohibit the patient from petitioning by writ of habeas corpus for release.

(14) Nothing in this chapter shall prohibit a person committed on or prior to January 1, 1974, from exercising a right available to him or her at or prior to January 1, 1974, for obtaining release from confinement.

(15) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or an active condition of supervision by the department of corrections.

Sec. 6. RCW 71.05.390 and 2007 c 375 s 15 are each amended to read as follows:

Except as provided in this section, RCW 71.05.445, 71.05.630, 70.96A.150, or pursuant to a valid release under RCW 70.02.030, the fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the person, or his or her personal representative or guardian, shall be obtained before information or records may be disclosed by a professional person employed by a facility unless provided to a professional person:

- (a) Employed by the facility;
- (b) Who has medical responsibility for the patient's care;
- (c) Who is a designated mental health professional;
- (d) Who is providing services under chapter 71.24 RCW;
- (e) Who is employed by a state or local correctional facility where the person is confined or supervised; or
- (f) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW.

(2) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside.

(3)(a) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such designation.

(b) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(i) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(ii) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Such other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator.

(4) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(5)(a) For either program evaluation or research, or both: PROVIDED, That the secretary adopts rules for the conduct of the evaluation or research, or both. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ "

(b) Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary.

(6)(a) To the courts as necessary to the administration of this chapter or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under this chapter.

(b) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(c) Disclosure under this subsection is mandatory for the purpose of the health insurance portability and accountability act.

(7)(a) When a mental health professional is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. Such written report shall be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(b) To law enforcement officers, public health officers, or personnel of the department of corrections or the indeterminate sentence review board for persons who are the subject of the records and who are committed to the custody or supervision of the department of corrections or indeterminate sentence review board which information or records are necessary to carry out the responsibilities of their office. Except for dissemination of information released pursuant to RCW 71.05.425 and 4.24.550, regarding persons committed under this chapter under RCW 71.05.280(3) and 71.05.320(3)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, the extent of information that may be released is limited as follows:

(i) Only the fact, place, and date of involuntary commitment, the fact and date of discharge or release, and the last known address shall be disclosed upon request;

(ii) The law enforcement and public health officers or personnel of the department of corrections or indeterminate sentence review board shall be obligated to keep such information confidential in accordance with this chapter;

(iii) Additional information shall be disclosed only after giving notice to said person and his or her counsel and upon a showing of clear, cogent, and convincing evidence that such information is necessary and that appropriate safeguards for strict confidentiality are and will be maintained. However, in the event the said person has escaped from custody, said notice prior to disclosure is not necessary and that the facility from which the person escaped shall include an evaluation as to whether the person is of danger to persons or property and has a propensity toward violence;

(iv) Information and records shall be disclosed to the department of corrections pursuant to and in compliance with the provisions of RCW 71.05.445 for the purposes of completing presentence investigations or risk assessment reports, supervision of an incarcerated offender or offender under supervision in the community, planning for and provision of supervision of an offender, or assessment of an offender's risk to the community; and

(v) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(8) To the attorney of the detained person.

(9) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2) and 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information shall be disclosed only after giving notice to the committed person and the person's counsel.

(10) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence.

(11) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence.

(12) To the persons designated in RCW 71.05.425 for the purposes described in that section.

(13) Civil liability and immunity for the release of information about a particular person who is committed to the department under RCW 71.05.280(3) and 71.05.320(3)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(14) Upon the death of a person, his or her next of kin, personal representative, guardian, or conservator, if any, shall be notified.

Next of kin who are of legal age and competent shall be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient shall be governed by RCW 70.02.140.

(15) To the department of health for the purposes of determining compliance with state or federal licensure, certification, or registration rules or laws. However, the information and records obtained under this subsection are exempt from public inspection and copying pursuant to chapter 42.56 RCW.

(16) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient.

(17) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), shall be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(ii);

(c) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(18) When a patient would otherwise be subject to the provisions of RCW 71.05.390 and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of such disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee.

Except as otherwise provided in this chapter, the uniform health care information act, chapter 70.02 RCW, applies to all records and information compiled, obtained, or maintained in the course of providing services.

(19) The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who was the subject of the proceeding except in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(3)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent

release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

Sec. 7. RCW 71.05.420 and 2005 c 504 s 110 are each amended to read as follows:

Except as provided in RCW 71.05.425, when any disclosure of information or records is made as authorized by RCW 71.05.390, the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility shall promptly cause to be entered into the patient's medical record the date and circumstances under which said disclosure was made, the names and relationships to the patient, if any, of the persons or agencies to whom such disclosure was made, and the information disclosed.

Sec. 8. RCW 71.05.630 and 2007 c 191 s 1 are each amended to read as follows:

(1) Except as otherwise provided by law, all treatment records shall remain confidential and may be released only to the persons designated in this section, or to other persons designated in an informed written consent of the patient.

(2) Treatment records of a person may be released without informed written consent in the following circumstances:

(a) To a person, organization, or agency as necessary for management or financial audits, or program monitoring and evaluation. Information obtained under this subsection shall remain confidential and may not be used in a manner that discloses the name or other identifying information about the person whose records are being released.

(b) To the department, the director of regional support networks, or a qualified staff member designated by the director only when necessary to be used for billing or collection purposes. The information shall remain confidential.

(c) For purposes of research as permitted in chapter 42.48 RCW.

(d) Pursuant to lawful order of a court.

(e) To qualified staff members of the department, to the director of regional support networks, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility. The information shall remain confidential.

(f) Within the treatment facility where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties.

(g) Within the department as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of persons who are under the supervision of the department.

(h) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the information contained in the treatment records could be injurious to the patient's health. Disclosure shall be limited to the portions of the records necessary to meet the medical emergency.

(i) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one treatment facility to another. The release of records under this subsection shall be limited to the treatment records required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the

patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record.

(j) Notwithstanding the provisions of RCW 71.05.390(7), to a correctional facility or a corrections officer who is responsible for the supervision of a person who is receiving inpatient or outpatient evaluation or treatment. Except as provided in RCW 71.05.445 and 71.34.345, release of records under this section is limited to:

(i) An evaluation report provided pursuant to a written supervision plan.

(ii) The discharge summary, including a record or summary of all somatic treatments, at the termination of any treatment provided as part of the supervision plan.

(iii) When a person is returned from a treatment facility to a correctional facility, the information provided under (j)(iv) of this subsection.

(iv) Any information necessary to establish or implement changes in the person's treatment plan or the level or kind of supervision as determined by resource management services. In cases involving a person transferred back to a correctional facility, disclosure shall be made to clinical staff only.

(k) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW.

(l) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information shall notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information.

(m) For purposes of coordinating health care, the department may release without informed written consent of the patient, information acquired for billing and collection purposes as described in (b) of this subsection to all current treating providers of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. The department shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. The department shall not release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client.

(3) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for chemical dependency, the department may restrict the release of the information as necessary to comply with federal law and regulations.

Sec. 9. RCW 71.05.660 and 2005 c 504 s 114 are each amended to read as follows:

Nothing in this chapter or chapter 70.96A, 71.05, 71.34, or 70.96B RCW shall be construed to interfere with communications between physicians, psychiatric advanced registered nurse practitioners, or psychologists and patients and attorneys and clients.

Sec. 10. RCW 71.06.040 and 1959 c 25 s 71.06.040 are each amended to read as follows:

At a preliminary hearing upon the charge of sexual psychopathy, the court may require the testimony of two duly licensed physicians or psychiatric advanced registered nurse practitioners who have examined the defendant. If the court finds that there are reasonable grounds to believe the defendant is a sexual psychopath, the court shall order said defendant confined at the nearest state hospital for observation as to the existence of sexual psychopathy. Such observation shall be for a period of not to exceed ninety days. The defendant shall be detained in the county jail or other county facilities pending execution of such observation order by the department.

Sec. 11. RCW 71.12.540 and 1989 1st ex.s. c 9 s 233 are each amended to read as follows:

The authorities of each establishment as defined in this chapter shall place on file in the office of the establishment the recommendations made by the department of health as a result of such visits, for the purpose of consultation by such authorities, and for reference by the department representatives upon their visits. Every such establishment shall keep records of every person admitted thereto as follows and shall furnish to the department, when required, the following data: Name, age, sex, marital status, date of admission, voluntary or other commitment, name of physician or psychiatric advanced registered nurse practitioner, diagnosis, and date of discharge.

Sec. 12. RCW 71.32.140 and 2004 c 39 s 2 are each amended to read as follows:

(1) A principal who:

(a) Chose not to be able to revoke his or her directive during any period of incapacity;

(b) Consented to voluntary admission to inpatient mental health treatment, or authorized an agent to consent on the principal's behalf; and

(c) At the time of admission to inpatient treatment, refuses to be admitted, may only be admitted into inpatient mental health treatment under subsection (2) of this section.

(2) A principal may only be admitted to inpatient mental health treatment under his or her directive if, prior to admission, a ~~((physician))~~ member of the treating facility's professional staff who is a physician or psychiatric advanced registered nurse practitioner:

(a) Evaluates the principal's mental condition, including a review of reasonably available psychiatric and psychological history, diagnosis, and treatment needs, and determines, in conjunction with another health care provider or mental health professional, that the principal is incapacitated;

(b) Obtains the informed consent of the agent, if any, designated in the directive;

(c) Makes a written determination that the principal needs an inpatient evaluation or is in need of inpatient treatment and that the evaluation or treatment cannot be accomplished in a less restrictive setting; and

(d) Documents in the principal's medical record a summary of the physician's or psychiatric advanced registered nurse practitioner's findings and recommendations for treatment or evaluation.

(3) In the event the admitting physician is not a psychiatrist, or the advanced registered nurse practitioner is not a psychiatric advanced registered nurse practitioner, the principal shall receive a complete psychological assessment by a mental health professional within twenty-four hours of admission to determine the continued need for inpatient evaluation or treatment.

(4)(a) If it is determined that the principal has capacity, then the principal may only be admitted to, or remain in, inpatient treatment if he or she consents at the time or is detained under the involuntary treatment provisions of chapter 70.96A, 71.05, or 71.34 RCW.

(b) If a principal who is determined by two health care providers or one mental health professional and one health care provider to be incapacitated continues to refuse inpatient treatment, the principal may immediately seek injunctive relief for release from the facility.

(5) If, at the end of the period of time that the principal or the principal's agent, if any, has consented to voluntary inpatient treatment, but no more than fourteen days after admission, the principal has not regained capacity or has regained capacity but refuses to consent to remain for additional treatment, the principal must be released during reasonable daylight hours, unless detained under chapter 70.96A, 71.05, or 71.34 RCW.

(6)(a) Except as provided in (b) of this subsection, any principal who is voluntarily admitted to inpatient mental health treatment under this chapter shall have all the rights provided to individuals who are voluntarily admitted to inpatient treatment under chapter 71.05, 71.34, or 72.23 RCW.

(b) Notwithstanding RCW 71.05.050 regarding consent to inpatient treatment for a specified length of time, the choices an incapacitated principal expressed in his or her directive shall control, provided, however, that a principal who takes action demonstrating a desire to be discharged, in addition to making statements requesting to be discharged, shall be discharged, and no principal shall be restrained in any way in order to prevent his or her discharge. Nothing in this subsection shall be construed to prevent detention and evaluation for civil commitment under chapter 71.05 RCW.

(7) Consent to inpatient admission in a directive is effective only while the professional person, health care provider, and health care facility are in substantial compliance with the material provisions of the directive related to inpatient treatment.

Sec. 13. RCW 71.32.250 and 2003 c 283 s 25 are each amended to read as follows:

(1) If a principal who is a resident of a long-term care facility is admitted to inpatient mental health treatment pursuant to his or her directive, the principal shall be allowed to be readmitted to the same long-term care facility as if his or her inpatient admission had been for a physical condition on the same basis that the principal would be readmitted under state or federal statute or rule when:

(a) The treating facility's professional staff determine that inpatient mental health treatment is no longer medically necessary for the resident. The determination shall be made in writing by a psychiatrist, psychiatric advanced registered nurse practitioner, or ~~((b))~~ a mental health professional and either (i) a physician or (ii) psychiatric advanced registered nurse practitioner; or

(b) The person's consent to admission in his or her directive has expired.

(2)(a) If the long-term care facility does not have a bed available at the time of discharge, the treating facility may discharge the resident, in consultation with the resident and agent if any, and in accordance with a medically appropriate discharge plan, to another long-term care facility.

(b) This section shall apply to inpatient mental health treatment admission of long-term care facility residents, regardless of whether

the admission is directly from a facility, hospital emergency room, or other location.

(c) This section does not restrict the right of the resident to an earlier release from the inpatient treatment facility. This section does not restrict the right of a long-term care facility to initiate transfer or discharge of a resident who is readmitted pursuant to this section, provided that the facility has complied with the laws governing the transfer or discharge of a resident.

(3) The joint legislative audit and review committee shall conduct an evaluation of the operation and impact of this section. The committee shall report its findings to the appropriate committees of the legislature by December 1, 2004.

Sec. 14. RCW 71.32.260 and 2003 c 283 s 26 are each amended to read as follows:

The directive shall be in substantially the following form:

Mental Health Advance Directive
NOTICE TO PERSONS

CREATING A MENTAL HEALTH ADVANCE DIRECTIVE

This is an important legal document. It creates an advance directive for mental health treatment. Before signing this document you should know these important facts:

(1) This document is called an advance directive and allows you to make decisions in advance about your mental health treatment, including medications, short-term admission to inpatient treatment and electroconvulsive therapy.

YOU DO NOT HAVE TO FILL OUT OR SIGN THIS FORM. IF YOU DO NOT SIGN THIS FORM, IT WILL NOT TAKE EFFECT.

If you choose to complete and sign this document, you may still decide to leave some items blank.

(2) You have the right to appoint a person as your agent to make treatment decisions for you. You must notify your agent that you have appointed him or her as an agent. The person you appoint has a duty to act consistently with your wishes made known by you. If your agent does not know what your wishes are, he or she has a duty to act in your best interest. Your agent has the right to withdraw from the appointment at any time.

(3) The instructions you include with this advance directive and the authority you give your agent to act will only become effective under the conditions you select in this document. You may choose to limit this directive and your agent's authority to times when you are incapacitated or to times when you are exhibiting symptoms or behavior that you specify. You may also make this directive effective immediately. No matter when you choose to make this directive effective, your treatment providers must still seek your informed consent at all times that you have capacity to give informed consent.

(4) You have the right to revoke this document in writing at any time you have capacity.

YOU MAY NOT REVOKE THIS DIRECTIVE WHEN YOU HAVE BEEN FOUND TO BE INCAPACITATED UNLESS YOU HAVE SPECIFICALLY STATED IN THIS DIRECTIVE THAT YOU WANT IT TO BE REVOCABLE WHEN YOU ARE INCAPACITATED.

(5) This directive will stay in effect until you revoke it unless you specify an expiration date. If you specify an expiration date and you are incapacitated at the time it expires, it will remain in effect until you have capacity to make treatment decisions again unless you chose to be able to revoke it while you are incapacitated and you revoke the directive.

- (6) You cannot use your advance directive to consent to civil commitment. The procedures that apply to your advance directive are different than those provided for in the Involuntary Treatment Act. Involuntary treatment is a different process.
- (7) If there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.
- (8) You should be aware that there are some circumstances where your provider may not have to follow your directive.
- (9) You should discuss any treatment decisions in your directive with your provider.
- (10) You may ask the court to rule on the validity of your directive.

**PART I.
STATEMENT OF INTENT TO CREATE A
MENTAL HEALTH ADVANCE DIRECTIVE**

I, being a person with capacity, willfully and voluntarily execute this mental health advance directive so that my choices regarding my mental health care will be carried out in circumstances when I am unable to express my instructions and preferences regarding my mental health care. If a guardian is appointed by a court to make mental health decisions for me, I intend this document to take precedence over all other means of ascertaining my intent.

The fact that I may have left blanks in this directive does not affect its validity in any way. I intend that all completed sections be followed. If I have not expressed a choice, my agent should make the decision that he or she determines is in my best interest. I intend this directive to take precedence over any other directives I have previously executed, to the extent that they are inconsistent with this document, or unless I expressly state otherwise in either document.

I understand that I may revoke this directive in whole or in part if I am a person with capacity. I understand that I cannot revoke this directive if a court, two health care providers, or one mental health professional and one health care provider find that I am an incapacitated person, unless, when I executed this directive, I chose to be able to revoke this directive while incapacitated.

I understand that, except as otherwise provided in law, revocation must be in writing. I understand that nothing in this directive, or in my refusal of treatment to which I consent in this directive, authorizes any health care provider, professional person, health care facility, or agent appointed in this directive to use or threaten to use abuse, neglect, financial exploitation, or abandonment to carry out my directive.

I understand that there are some circumstances where my provider may not have to follow my directive.

**PART II.
WHEN THIS DIRECTIVE IS EFFECTIVE**

YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I intend that this directive become effective (*YOU MUST CHOOSE ONLY ONE*):

- Immediately upon my signing of this directive.
- If I become incapacitated.
- When the following circumstances, symptoms, or behaviors occur:

**PART III.
DURATION OF THIS DIRECTIVE**

YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I want this directive to (*YOU MUST CHOOSE ONLY ONE*):
 Remain valid and in effect for an indefinite period of time.
 Automatically expire years from the date it was created.

**PART IV.
WHEN I MAY REVOKE THIS DIRECTIVE**
YOU MUST COMPLETE THIS PART FOR THIS DIRECTIVE TO BE VALID.

I intend that I be able to revoke this directive (*YOU MUST CHOOSE ONLY ONE*):

- Only when I have capacity.
- I understand that choosing this option means I may only revoke this directive if I have capacity. I further understand that if I choose this option and become incapacitated while this directive is in effect, I may receive treatment that I specify in this directive, even if I object at the time.
 Even if I am incapacitated.
- I understand that choosing this option means that I may revoke this directive even if I am incapacitated. I further understand that if I choose this option and revoke this directive while I am incapacitated I may not receive treatment that I specify in this directive, even if I want the treatment.

**PART V.
PREFERENCES AND INSTRUCTIONS ABOUT
TREATMENT, FACILITIES, AND PHYSICIANS OR
PSYCHIATRIC ADVANCED REGISTERED NURSE
PRACTITIONERS**

A. Preferences and Instructions About Physician(s) or Psychiatric Advanced Registered Nurse Practitioner(s) to be Involved in My Treatment

I would like the physician(s) or psychiatric advanced registered nurse practitioner(s) named below to be involved in my treatment decisions:

- Dr. or PARNP Contact information:
- Dr. or PARNP Contact information:
- I do not wish to be treated by Dr. or PARNP.

B. Preferences and Instructions About Other Providers

I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would like the following treatment provider(s) to be contacted when this directive is effective:

- Name Profession
- Contact information.
- Name Profession
- Contact information.

C. Preferences and Instructions About Medications for Psychiatric Treatment (initial and complete all that apply)

- I consent, and authorize my agent (if appointed) to consent, to the following medications:
- I do not consent, and I do not authorize my agent (if appointed) to consent, to the administration of the following medications:
- I am willing to take the medications excluded above if my only reason for excluding them is the side effects which include and these side effects can be eliminated by dosage adjustment or other means
- I am willing to try any other medication the hospital doctor or psychiatric advanced registered nurse practitioner recommends

..... I am willing to try any other medications my outpatient doctor or psychiatric advanced registered nurse practitioner recommends
..... I do not want to try any other medications.

Medication Allergies

I have allergies to, or severe side effects from, the following:.....

Other Medication Preferences or Instructions

..... I have the following other preferences or instructions about medications.

D. Preferences and Instructions About Hospitalization and Alternatives

(initial all that apply and, if desired, rank "1" for first choice, "2" for second choice, and so on)

..... In the event my psychiatric condition is serious enough to require 24-hour care and I have no physical conditions that require immediate access to emergency medical care, I prefer to receive this care in programs/facilities designed as alternatives to psychiatric hospitalizations.

..... I would also like the interventions below to be tried before hospitalization is considered:

- Calling someone or having someone call me when needed.
Name: Telephone:
- Staying overnight with someone
Name: Telephone:
- Having a mental health service provider come to see me
- Going to a crisis triage center or emergency room
- Staying overnight at a crisis respite (temporary) bed
- Seeing a service provider for help with psychiatric medications
- Other, specify:

Authority to Consent to Inpatient Treatment

I consent, and authorize my agent (if appointed) to consent, to voluntary admission to inpatient mental health treatment for ... days (not to exceed 14 days)

(Sign one):

..... If deemed appropriate by my agent (if appointed) and treating physician or psychiatric advanced registered nurse practitioner
.....
(Signature)

or

..... Under the following circumstances (specify symptoms, behaviors, or circumstances that indicate the need for hospitalization)
.....
(Signature)

..... I do **not** consent, or authorize my agent (if appointed) to consent, to inpatient treatment
.....
(Signature)

Hospital Preferences and Instructions

If hospitalization is required, I prefer the following hospitals:
I do not consent to be admitted to the following hospitals:

E. Preferences and Instructions About Preemergency

- I would like the interventions below to be tried before use of seclusion or restraint is considered (initial all that apply):
- "Talk me down" one-on-one
 - More medication
 - Time out/privacy
 - Show of authority/force
 - Shift my attention to something else
 - Set firm limits on my behavior

- Help me to discuss/vent feelings
- Decrease stimulation
- Offer to have neutral person settle dispute
- Other, specify

F. Preferences and Instructions About Seclusion, Restraint, and Emergency Medications

If it is determined that I am engaging in behavior that requires seclusion, physical restraint, and/or emergency use of medication, I prefer these interventions in the order I have chosen (choose "1" for first choice, "2" for second choice, and so on):

- Seclusion
- Seclusion and physical restraint (combined)
- Medication by injection
- Medication in pill or liquid form

In the event that my attending physician or psychiatric advanced registered nurse practitioner decides to use medication in response to an emergency situation after due consideration of my preferences and instructions for emergency treatments stated above, I expect the choice of medication to reflect any preferences and instructions I have expressed in Part III C of this form. The preferences and instructions I express in this section regarding medication in emergency situations do not constitute consent to use of the medication for nonemergency treatment.

G. Preferences and Instructions About Electroconvulsive Therapy (ECT or Shock Therapy)

My wishes regarding electroconvulsive therapy are (sign one):

..... I do not consent, nor authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy
.....
(Signature)

..... I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy
.....
(Signature)

..... I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy, but only under the following conditions:

H. Preferences and Instructions About Who is Permitted to Visit

If I have been admitted to a mental health treatment facility, the following people are not permitted to visit me there:
Name:
Name:
Name:

I understand that persons not listed above may be permitted to visit me.

I. Additional Instructions About My Mental Health Care

Other instructions about my mental health care:

In case of emergency, please contact:
Name: Address:
Work telephone: Home telephone:
Physician or Psychiatric Address:
Advanced Registered Nurse Practitioner:

Telephone:

The following may help me to avoid a hospitalization:

I generally react to being hospitalized as follows:

.....
Staff of the hospital or crisis unit can help me by doing the following:
.....
.....

J. Refusal of Treatment

I do not consent to any mental health treatment.

.....
(Signature)

PART VI.

DURABLE POWER OF ATTORNEY (APPOINTMENT OF MY AGENT)

(Fill out this part only if you wish to appoint an agent or nominate a guardian.)

I authorize an agent to make mental health treatment decisions on my behalf. The authority granted to my agent includes the right to consent, refuse consent, or withdraw consent to any mental health care, treatment, service, or procedure, consistent with any instructions and/or limitations I have set forth in this directive. I intend that those decisions should be made in accordance with my expressed wishes as set forth in this document. If I have not expressed a choice in this document **and my agent does not otherwise know my wishes**, I authorize my agent to make the decision that my agent determines is in my best interest. This agency shall not be affected by my incapacity. Unless I state otherwise in this durable power of attorney, I may revoke it unless prohibited by other state law.

A. Designation of an Agent

I appoint the following person as my agent to make mental health treatment decisions for me as authorized in this document and request that this person be notified immediately when this directive becomes effective:

Name: Address:
Work telephone: Home telephone:
Relationship:

B. Designation of Alternate Agent

If the person named above is unavailable, unable, or refuses to serve as my agent, or I revoke that person's authority to serve as my agent, I hereby appoint the following person as my alternate agent and request that this person be notified immediately when this directive becomes effective or when my original agent is no longer my agent:

Name: Address:
Work telephone: Home telephone:
Relationship:

C. When My Spouse is My Agent (initial if desired)

..... If my spouse is my agent, that person shall remain my agent even if we become legally separated or our marriage is dissolved, unless there is a court order to the contrary or I have remarried.

D. Limitations on My Agent's Authority

I do not grant my agent the authority to consent on my behalf to the following:

.....
.....

E. Limitations on My Ability to Revoke this Durable Power of Attorney

I choose to limit my ability to revoke this durable power of attorney as follows:

.....
.....

F. Preference as to Court-Appointed Guardian

In the event a court appoints a guardian who will make decisions regarding my mental health treatment, I **nominate** the following person as **my guardian**:

Name: Address:
Work telephone: Home telephone:
Relationship:

The appointment of a guardian of my estate or my person or any other decision maker shall not give the guardian or decision maker the power to revoke, suspend, or terminate this directive or the powers of my agent, except as authorized by law.

.....
(Signature required if nomination is made)

PART VII.

OTHER DOCUMENTS

(Initial all that apply)

I have executed the following documents that include the power to make decisions regarding health care services for myself:

- Health care power of attorney (chapter 11.94 RCW)
- "Living will" (Health care directive; chapter 70.122 RCW)
- I have appointed more than one agent. I understand that the most recently appointed agent controls except as stated below:

.....

PART VIII.

NOTIFICATION OF OTHERS AND CARE OF PERSONAL AFFAIRS

(Fill out this part only if you wish to provide nontreatment instructions.)

I understand the preferences and instructions in this part are **NOT** the responsibility of my treatment provider and that no treatment provider is required to act on them.

A. Who Should Be Notified

I desire my agent to notify the following individuals as soon as possible when this directive becomes effective:

Name: Address:
Day telephone: Evening telephone:
Name: Address:
Day telephone: Evening telephone:

B. Preferences or Instructions About Personal Affairs

I have the following preferences or instructions about my personal affairs (e.g., care of dependents, pets, household) if I am admitted to a mental health treatment facility:

.....
.....

C. Additional Preferences and Instructions:

.....
.....
.....

**PART IX.
SIGNATURE**

By signing here, I indicate that I understand the purpose and effect of this document and that I am giving my informed consent to the treatments and/or admission to which I have consented or authorized my agent to consent in this directive. I intend that my consent in this directive be construed as being consistent with the elements of informed consent under chapter 7.70 RCW.

Signature: Date:
Printed Name:

This directive was signed and declared by the "Principal," to be his or her directive, in our presence who, at his or her request, have signed our names below as witnesses. We declare that, at the time of the creation of this instrument, the Principal is personally known to us, and, according to our best knowledge and belief, has capacity at this time and does not appear to be acting under duress, undue influence, or fraud. We further declare that none of us is:

(A) A person designated to make medical decisions on the principal's behalf;

(B) A health care provider or professional person directly involved with the provision of care to the principal at the time the directive is executed;

(C) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care facility in which the principal is a patient or resident;

(D) A person who is related by blood, marriage, or adoption to the person, or with whom the principal has a dating relationship as defined in RCW 26.50.010;

(E) An incapacitated person;

(F) A person who would benefit financially if the principal undergoes mental health treatment; or

(G) A minor.

Witness 1: Signature: Date:

Printed Name:

Telephone: Address:

Witness 2: Signature: Date:

Printed Name:

Telephone: Address:

**PART X.
RECORD OF DIRECTIVE**

I have given a copy of this directive to the following persons:

.....

**DO NOT FILL OUT PART XI UNLESS YOU INTEND TO
REVOKE**

THIS DIRECTIVE IN PART OR IN WHOLE

**PART XI.
REVOCATION OF THIS DIRECTIVE**

(Initial any that apply):

..... I am revoking the following part(s) of this directive (specify):

.....

.....

..... I am revoking all of this directive.

By signing here, I indicate that I understand the purpose and effect of my revocation and that no person is bound by any revoked provision(s). I intend this revocation to be interpreted as if I had never completed the revoked provision(s).

Signature: Date:

Printed Name:

**DO NOT SIGN THIS PART UNLESS YOU INTEND TO
REVOKE THIS
DIRECTIVE IN PART OR IN WHOLE**

Sec. 15. RCW 71.34.355 and 1985 c 354 s 16 are each amended to read as follows:

Absent a risk to self or others, minors treated under this chapter have the following rights, which shall be prominently posted in the evaluation and treatment facility:

(1) To wear their own clothes and to keep and use personal possessions;

(2) To keep and be allowed to spend a reasonable sum of their own money for canteen expenses and small purchases;

(3) To have individual storage space for private use;

(4) To have visitors at reasonable times;

(5) To have reasonable access to a telephone, both to make and receive confidential calls;

(6) To have ready access to letter-writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(7) To discuss treatment plans and decisions with mental health professionals;

(8) To have the right to adequate care and individualized treatment;

(9) Not to consent to the performance of electro-convulsive treatment or surgery, except emergency life-saving surgery, upon him or her, and not to have electro-convulsive treatment or nonemergency surgery in such circumstance unless ordered by a court pursuant to a judicial hearing in which the minor is present and represented by counsel, and the court shall appoint a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or physician designated by the minor or the minor's counsel to testify on behalf of the minor. The minor's parent may exercise this right on the minor's behalf, and must be informed of any impending treatment;

(10) Not to have psychosurgery performed on him or her under any circumstances.

Sec. 16. RCW 71.34.720 and 1991 c 364 s 12 are each amended to read as follows:

(1) Each minor approved by the facility for inpatient admission shall be examined and evaluated by a children's mental health specialist as to the child's mental condition and by a physician or psychiatric advanced registered nurse practitioner as to the child's physical condition within twenty-four hours of admission. Reasonable measures shall be taken to ensure medical treatment is provided for any condition requiring immediate medical attention.

(2) If, after examination and evaluation, the children's mental health specialist and the physician or psychiatric advanced registered nurse practitioner determine that the initial needs of the minor would be better served by placement in a chemical dependency treatment facility, then the minor shall be referred to an approved treatment program defined under RCW 70.96A.020.

(3) The admitting facility shall take reasonable steps to notify immediately the minor's parent of the admission.

(4) During the initial seventy-two hour treatment period, the minor has a right to associate or receive communications from parents or others unless the professional person in charge determines that such communication would be seriously detrimental to the minor's condition or treatment and so indicates in the minor's clinical record, and notifies the minor's parents of this determination. In no event may the minor be denied the opportunity to consult an attorney.

(5) If the evaluation and treatment facility admits the minor, it may detain the minor for evaluation and treatment for a period not to exceed seventy-two hours from the time of provisional acceptance. The computation of such seventy-two hour period shall exclude Saturdays, Sundays, and holidays. This initial treatment period shall not exceed seventy-two hours except when an application for voluntary inpatient treatment is received or a petition for fourteen-day commitment is filed.

(6) Within twelve hours of the admission, the facility shall advise the minor of his or her rights as set forth in this chapter.

Sec. 17. RCW 71.34.730 and 1995 c 312 s 54 are each amended to read as follows:

(1) The professional person in charge of an evaluation and treatment facility where a minor has been admitted involuntarily for the initial seventy-two hour treatment period under this chapter may petition to have a minor committed to an evaluation and treatment facility for fourteen-day diagnosis, evaluation, and treatment.

If the professional person in charge of the treatment and evaluation facility does not petition to have the minor committed, the parent who has custody of the minor may seek review of that decision in court. The parent shall file notice with the court and provide a copy of the treatment and evaluation facility's report.

(2) A petition for commitment of a minor under this section shall be filed with the superior court in the county where the minor is residing or being detained.

(a) A petition for a fourteen-day commitment shall be signed ~~((either))~~ by (i) two physicians ~~((or by one physician and))~~, (ii) two psychiatric advanced registered nurse practitioners, (iii) a mental health professional ~~((who))~~ and either a physician or a psychiatric advanced registered nurse practitioner, or (iv) a physician and a psychiatric advanced registered nurse practitioner. The person signing the petition must have examined the minor, and ~~((shall))~~ the petition must contain the following:

~~((+))~~ (A) The name and address of the petitioner;

~~((+))~~ (B) The name of the minor alleged to meet the criteria for fourteen-day commitment;

~~((+))~~ (C) The name, telephone number, and address if known of every person believed by the petitioner to be legally responsible for the minor;

~~((+))~~ (D) A statement that the petitioner has examined the minor and finds that the minor's condition meets required criteria for fourteen-day commitment and the supporting facts therefor;

~~((+))~~ (E) A statement that the minor has been advised of the need for voluntary treatment but has been unwilling or unable to consent to necessary treatment;

~~((+))~~ (F) A statement recommending the appropriate facility or facilities to provide the necessary treatment; and

~~((+))~~ (G) A statement concerning whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(b) A copy of the petition shall be personally delivered to the minor by the petitioner or petitioner's designee. A copy of the petition shall be sent to the minor's attorney and the minor's parent.

Sec. 18. RCW 71.34.750 and 1985 c 354 s 9 are each amended to read as follows:

(1) At any time during the minor's period of fourteen-day commitment, the professional person in charge may petition the court for an order requiring the minor to undergo an additional one hundred eighty-day period of treatment. The evidence in support of the petition shall be presented by the county prosecutor unless the petition is filed by the professional person in charge of a state-operated facility in which case the evidence shall be presented by the attorney general.

(2) The petition for one hundred eighty-day commitment shall contain the following:

(a) The name and address of the petitioner or petitioners;

(b) The name of the minor alleged to meet the criteria for one hundred eighty-day commitment;

(c) A statement that the petitioner is the professional person in charge of the evaluation and treatment facility responsible for the treatment of the minor;

(d) The date of the fourteen-day commitment order; and

(e) A summary of the facts supporting the petition.

(3) The petition shall be supported by accompanying affidavits signed by (a) two examining physicians, one of whom shall be a child

psychiatrist, ~~((or by one examining physician and))~~ or two psychiatric advanced registered nurse practitioners, one of whom shall be a child and adolescent or family psychiatric advanced registered nurse practitioner, (b) one children's mental health specialist and either an examining physician or a psychiatric advanced registered nurse practitioner, or (c) an examining physician and a psychiatric advanced registered nurse practitioner, one of which needs to be a child psychiatrist or a child and adolescent psychiatric nurse practitioner. The affidavits shall describe in detail the behavior of the detained minor which supports the petition and shall state whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(4) The petition for one hundred eighty-day commitment shall be filed with the clerk of the court at least three days before the expiration of the fourteen-day commitment period. The petitioner or the petitioner's designee shall within twenty-four hours of filing serve a copy of the petition on the minor and notify the minor's attorney and the minor's parent. A copy of the petition shall be provided to such persons at least twenty-four hours prior to the hearing.

(5) At the time of filing, the court shall set a date within seven days for the hearing on the petition. The court may continue the hearing upon the written request of the minor or the minor's attorney for not more than ten days. The minor or the parents shall be afforded the same rights as in a fourteen-day commitment hearing. Treatment of the minor shall continue pending the proceeding.

(6) For one hundred eighty-day commitment, the court must find by clear, cogent, and convincing evidence that the minor:

(a) Is suffering from a mental disorder;

(b) Presents a likelihood of serious harm or is gravely disabled; and

(c) Is in need of further treatment that only can be provided in a one hundred eighty-day commitment.

(7) If the court finds that the criteria for commitment are met and that less restrictive treatment in a community setting is not appropriate or available, the court shall order the minor committed for further inpatient treatment to the custody of the secretary or to a private treatment and evaluation facility if the minor's parents have assumed responsibility for payment for the treatment. If the court finds that a less restrictive alternative is in the best interest of the minor, the court shall order less restrictive alternative treatment upon such conditions as necessary.

If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

(8) Successive one hundred eighty-day commitments are permissible on the same grounds and under the same procedures as the original one hundred eighty-day commitment. Such petitions shall be filed at least five days prior to the expiration of the previous one hundred eighty-day commitment order.

Sec. 19. RCW 71.34.770 and 1985 c 354 s 12 are each amended to read as follows:

(1) The professional person in charge of the inpatient treatment facility may authorize release for the minor under such conditions as appropriate. Conditional release may be revoked pursuant to RCW 71.34.780 if leave conditions are not met or the minor's functioning substantially deteriorates.

(2) Minors may be discharged prior to expiration of the commitment period if the treating physician, psychiatric advanced registered nurse practitioner, or professional person in charge concludes that the minor no longer meets commitment criteria.

Sec. 20. RCW 71.05.020 and 2008 c 156 s 1 are each amended to read as follows:

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

(1) "Admission" or "admit" means a decision by a physician or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(3) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(4) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(5) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(6) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(7) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(8) "Department" means the department of social and health services;

(9) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in chapters 70.96A and 70.96B RCW;

(10) "Designated crisis responder" means a mental health professional appointed by the county or the regional support network to perform the duties specified in this chapter;

(11) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter;

(12) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(13) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(14) "Developmental disability" means that condition defined in RCW 71A.10.020(3);

(15) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(16) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. A physically separate and separately operated portion of

a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(17) "Gravely disabled" means a condition in which a person, as a result of a mental disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(18) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(19) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility or in confinement as a result of a criminal conviction;

(20) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(21) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(22) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(23) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(24) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(25) "Mental health professional" means a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(26) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(27) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill;

(28) "Professional person" means a mental health professional and shall also mean a physician, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(29) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(30) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(31) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(32) "Public agency" means any evaluation and treatment facility or institution, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

(33) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness;

(34) "Release" means legal termination of the commitment under the provisions of this chapter;

(35) "Resource management services" has the meaning given in chapter 71.24 RCW;

(36) "Secretary" means the secretary of the department of social and health services, or his or her designee;

(37) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary;

(38) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional

support networks, or a treatment facility if the notes or records are not available to others;

(39) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property."

On page 1, line 1 of the title, after "practitioners;" strike the remainder of the title and insert "and amending RCW 71.05.210, 71.05.230, 71.05.290, 71.05.300, 71.05.360, 71.05.390, 71.05.420, 71.05.630, 71.05.660, 71.06.040, 71.12.540, 71.32.140, 71.32.250, 71.32.260, 71.34.355, 71.34.720, 71.34.730, 71.34.750, 71.34.770, and 71.05.020."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1071 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Green 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 Substitute House Bill No. 1071, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1071, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Lias, 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: Representative Flannigan.

SUBSTITUTE HOUSE BILL NO. 1071, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 7, 2009

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1120 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.56.010 and 1965 c 8 s 43.56.010 are each amended to read as follows:

(1) The governor shall appoint three (~~(suitable)~~) qualified persons (~~(as a board of commissioners)~~) to serve on the Washington state uniform law commission for the promotion of uniformity of legislation in the United States. (~~(Any vacancy on the board shall be filled by appointment by the governor.)~~) A qualified person is a resident of the state of Washington and a member of the state bar association of this or another state, who is or has been a judge, law professor, legislator, or practicing attorney.

(2) In addition to the members of the commission appointed pursuant to subsection (1) of this section, the governor may appoint to the commission any person who has served at least twenty years on the commission and who is a life member in the national conference of commissioners on uniform state laws or its successor.

(3) In addition to the members of the commission appointed pursuant to subsections (1) and (2) of this section, the code reviser shall serve as a member of the commission.

Sec. 2. RCW 43.56.020 and 1965 c 8 s 43.56.020 are each amended to read as follows:

(1) The (~~(board)~~) commission shall (~~(examine the subjects of marriage and divorce, insolvency, the descent and distribution of property, the execution and probate of wills, and other subjects upon which uniformity of legislation in the various states is desirable, but which are outside of the jurisdiction of the congress of the United States)~~) identify areas of the law in which (a) uniformity in the laws among the states and other jurisdictions is desirable and practicable and (b)(i) the congress of the United States lacks jurisdiction to act or (ii) it is preferable that the several states enact the laws.

(~~(It)~~) (2) The commissioners, at the national conference of commissioners on uniform state laws or its successor, shall confer upon these matters with the commissioners appointed by other states for the same purpose and shall consider and draft uniform laws to be submitted for approval and adoption by the several states(~~(:)~~).

(3) The commission shall propose to the legislature for approval and adoption the uniform acts developed with the other commissioners and generally devise and recommend such other and further courses of action as shall accomplish such uniformity.

Sec. 3. RCW 43.56.040 and 1975-'76 2nd ex.s. c 34 s 118 are each amended to read as follows:

No member of the (~~(board)~~) commission shall receive any compensation for (~~(his)~~) services, but each member shall be paid travel expenses incurred in the discharge of official duty in accordance with RCW 43.03.050 and 43.03.060 (~~(as now existing or hereafter amended)~~), after the account thereof has been audited by the (~~(board)~~) commission.

The (~~(board)~~) commission shall keep a full account of its expenditures and shall report it in each report. (~~(There shall be allowed such)~~) The commission shall allow expenses for only one (~~(annual)~~) meeting of the (~~(board)~~) commission within this state each year, and shall allow expenses for the members (~~(in attendance, not offener)~~) to attend, no more than once in each year, (~~(at)~~) any conference of the national conference of commissioners on uniform state laws, or its successor, outside of this state.

NEW SECTION. Sec. 4. RCW 43.56.050 (Membership--Code reviser) and 2001 c 205 s 1 are each repealed."

On page 1, line 1 of the title, after "laws;" strike the remainder of the title and insert "amending RCW 43.56.010, 43.56.020, and 43.56.040; and repealing RCW 43.56.050."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1120 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Pedersen and Rodne 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. 1120, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1120, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, 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.

Excused: Representative Flannigan.

HOUSE BILL NO. 1120, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

The Speaker (Representative Morris presiding) called upon Representative Moeller to preside.

MESSAGE FROM THE SENATE

April 13, 2009

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1004 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 19.260.020 and 2006 c 194 s 1 are each amended to read as follows:

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

(1) "Automatic commercial ice cube machine" means a factory-made assembly, not necessarily shipped in one package, consisting of a condensing unit and ice-making section operating as an

integrated unit with means for making and harvesting ice cubes. It may also include integrated components for storing or dispensing ice, or both.

(2) (~~"Ballast" means a device used with an electric discharge lamp to obtain necessary circuit conditions, such as voltage, current, and waveform, for starting and operating the lamp.~~

~~(3) "Commercial clothes washer" means a soft mount horizontal or vertical-axis clothes washer that: (a) Has a clothes container compartment no greater than 3.5 cubic feet in the case of a horizontal-axis product or no greater than 4.0 cubic feet in the case of a vertical-axis product; and (b) is designed for use by more than one household, such as in multifamily housing, apartments, or coin laundries.~~

~~(4) "Commercial prerinse spray valve" means a handheld device designed and marketed for use with commercial dishwashing and warewashing equipment and that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue prior to their cleaning.) "Bottle-type water dispenser" means a water dispenser that uses a bottle or reservoir as the source of potable water.~~

(3) "Commercial hot food holding cabinet" means a heated, fully enclosed compartment, with one or more solid or partial glass doors, that is designed to maintain the temperature of hot food that has been cooked in a separate appliance. "Commercial hot food holding cabinet" does not include heated glass merchandising cabinets, drawer warmers, or cook and hold appliances.

~~((5)) (4)(a) "Commercial refrigerators and freezers" means refrigerators, freezers, or refrigerator-freezers designed for use by commercial or institutional facilities for the purpose of storing or merchandising food products, beverages, or ice at specified temperatures that: (i) Incorporate most components involved in the vapor-compression cycle and the refrigerated compartment in a single cabinet; and (ii) may be configured with either solid or transparent doors as a reach-in cabinet, pass-through cabinet, roll-in cabinet, or roll-through cabinet.~~

(b) "Commercial refrigerators and freezers" does not include: (i) Products with 85 cubic feet or more of internal volume; (ii) walk-in refrigerators or freezers; (iii) consumer products that are federally regulated pursuant to 42 U.S.C. Sec. 6291 et seq.; (iv) products without doors; or (v) freezers specifically designed for ice cream.

~~((6)) (5) "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.~~

(6) "Cook and hold appliance" means a multiple mode appliance intended for cooking food that may be used to hold the temperature of the food that has been cooked in the same appliance.

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

(8) (~~"High-intensity discharge lamp" means a lamp in which light is produced by the passage of an electric current through a vapor or gas, and in which the light-producing arc is stabilized by bulb wall temperature and the arc tube has a bulb wall loading in excess of three watts per square centimeter.~~

~~(9) "Metal halide lamp" means a high-intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.~~

~~(10) "Metal halide lamp fixture" means a light fixture designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.) "Drawer warmer" means an appliance that consists of one or more heated drawers and that is designed to hold hot food that has been cooked in a separate appliance at a specified temperature.~~

(9) "Heated glass merchandising cabinet" means an appliance with a heated cabinet constructed of glass or clear plastic doors which, with seventy percent or more clear area, is designed to display and maintain the temperature of hot food that has been cooked in a separate appliance.

(10) "Hot water dispenser" means a small electric water heater that has a measured storage volume of no greater than one gallon.

(11) "Mini-tank electric water heater" means a small electric water heater that has a measured storage volume of more than one gallon and a rated storage volume of less than twenty gallons.

~~((11)) (12) "Pass-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on both the front and rear of the unit.~~

~~((12) "Probe-start metal halide ballast" means a ballast used to operate metal halide lamps which does not contain an igniter and which instead starts lamps by using a third starting electrode "probe" in the arc tube.)~~

(13) "Point-of-use water dispenser" means a water dispenser that uses a pressurized water utility connection as the source of potable water.

(14) "Pool heater" means an appliance designed for heating nonpotable water contained at atmospheric pressure for swimming pools, spas, hot tubs, and similar applications.

(15) "Portable electric spa" means a factory-built electric spa or hot tub, supplied with equipment for heating and circulating water.

(16) "Reach-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors or lids, but does not include roll-in or roll-through cabinets or pass-through cabinets.

((14)) (17) "Residential pool pump" means a pump used to circulate and filter pool water in order to maintain clarity and sanitation.

(18)(a) "Roll-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors that allow wheeled racks of product to be rolled into the unit.

(b) "Roll-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on two sides of the cabinet that allow wheeled racks of product to be rolled through the unit.

~~((15)(a) "Single-voltage external AC to DC power supply" means a device that: (i) Is designed to convert line voltage alternating current input into lower voltage direct current output; (ii) is able to convert to only one DC output voltage at a time; (iii) is sold with, or intended to be used with, a separate end-use product that constitutes the primary power load; (iv) is contained within a separate physical enclosure from the end-use product; (v) is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord, or other wiring; and (vi) has a nameplate output power less than or equal to 250 watts.~~

~~(b) "Single-voltage external AC to DC power supply" does not include: (i) Products with batteries or battery packs that physically attach directly to the power supply unit; (ii) products with a battery chemistry or type selector switch and indicator light; or (iii) products with a battery chemistry or type selector switch and a state of charge meter.~~

~~((16)) (19) "Showerhead" means a device through which water is discharged for a shower bath.~~

(20) "Showerhead tub spout diverter combination" means a group of plumbing fittings sold as a matched set and consisting of a control valve, a tub spout diverter, and a showerhead.

(21) "State-regulated incandescent reflector lamp" means a lamp that is not colored or designed for rough or vibration service applications, ((that)) has an inner reflective coating on the outer bulb to direct the light, an E26 medium screw base, ((and)) a rated voltage

or voltage range that lies at least partially within 115 to 130 volts, and ~~(that)~~ falls into one of the following categories:

(a) A bulged reflector or elliptical reflector bulb shape and which has a diameter which equals or exceeds 2.25 inches; or

(b) A reflector, parabolic aluminized reflector, or similar bulb shape and which has a diameter of 2.25 to 2.75 inches.

~~((17) "Transformer" means a device consisting of two or more coils of insulated wire and that is designed to transfer alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.~~

~~— (18)(a) "Unit heater" means a self-contained, vented fan-type commercial space heater that uses natural gas or propane, and that is designed to be installed without ducts within a heated space.~~

~~— (b) "Unit heater" does not include any products covered by federal standards established pursuant to 42 U.S.C. Sec. 6291 et seq. or any product that is a direct vent, forced flue heater with a sealed combustion burner))~~ (22) "Tub spout diverter" means a device designed to stop the flow of water into a bathtub and to divert it so that the water discharges through a showerhead.

(23) "Wine chillers designed and sold for use by an individual" means refrigerators designed and sold for the cooling and storage of wine by an individual.

Sec. 2. RCW 19.260.030 and 2006 c 194 s 2 are each amended to read as follows:

(1) This chapter applies to the following types of new products sold, offered for sale, or installed in the state:

(a) Automatic commercial ice cube machines;

~~(b) ((commercial clothes washers; (c) commercial prerinse spray valves; (d))~~ Commercial refrigerators and freezers; ~~((e) metal halide lamp fixtures; (f) single-voltage external AC to DC power supplies; (g))~~

(c) State-regulated incandescent reflector lamps; ((and (h) unit heaters))

(d) Wine chillers designed and sold for use by an individual;

(e) Hot water dispensers and mini-tank electric water heaters;

(f) Bottle-type water dispensers and point-of-use water dispensers;

(g) Pool heaters, residential pool pumps, and portable electric spas;

(h) Tub spout diverters; and

(i) Commercial hot food holding cabinets.

(2) This chapter applies equally to products whether they are sold, offered for sale, or installed as ~~((a))~~ stand-alone products or as ~~((a))~~ components of ~~((another))~~ other products.

~~((2))~~ (3) This chapter does not apply to:

(a) New products manufactured in the state and sold outside the state~~(:);~~

(b) New products manufactured outside the state and sold at wholesale inside the state for final retail sale and installation outside the state~~(:);~~

(c) Products installed in mobile manufactured homes at the time of construction~~(:);~~ or

(d) Products designed expressly for installation and use in recreational vehicles.

Sec. 3. RCW 19.260.040 and 2006 c 194 s 3 are each amended to read as follows:

The ~~((legislature establishes the following))~~ minimum efficiency standards ~~((for))~~ specified in this section apply to the types of new products set forth in RCW 19.260.030.

(1)(a) Automatic commercial ice cube machines must have daily energy use and daily water use no greater than the applicable values in the following table:

Format change to accommodate text.

Equipment type	Type of cooling	Harvest rate (lbs. ice/24 hrs.)	Maximum energy use (kWh/100 lbs.)	Maximum condenser water use (gallons/100 lbs. ice)
Ice-making head	water	<500	7.80 - .0055H	200 - .022H
		>=500<1436	5.58 - .0011H	200 - .022H
		>=1436	4.0	200 - .022H
Ice-making head	air	450	10.26 - .0086H	Not applicable
		>=450	6.89 - .0011H	Not applicable
Remote condensing but not remote compressor	air	<1000	8.85 - .0038	Not applicable
Remote condensing and remote compressor	air	>=1000	5.10	Not applicable
		<934	8.85 - .0038H	Not applicable
Self-contained models	water	>=934	5.3	Not applicable
		<200	11.40 - .0190H	191 - .0315H
Self-contained models	air	>=200	7.60	191 - .0315H
		<175	18.0 - .0469H	Not applicable
Self-contained models	air	>=175	9.80	Not applicable

Where H = harvest rate in pounds per twenty-four hours which must be reported within 5% of the tested value. "Maximum water use" applies only to water used for the condenser.

(b) For purposes of this section, automatic commercial ice cube machines shall be tested in accordance with the ARI 810-2003 test method as published by the air-conditioning and refrigeration institute. Ice-making heads include all automatic commercial ice cube machines that are not split system ice makers or self-contained models as defined in ARI 810-2003.

(2) ~~((Commercial clothes washers must have a minimum modified energy factor of 1.26. For the purposes of this section, capacity and modified energy factor are defined and measured in accordance with the current federal test method for clothes washers as found at 10 C.F.R. Sec. 430.23.~~

~~—(3) Commercial prerinse spray valves must have a flow rate equal to or less than 1.6 gallons per minute when measured in accordance with the American society for testing and materials' "Standard Test Method for Prerinse Spray Valves," ASTM F2324-03.~~

~~—(4))(a) Commercial refrigerators and freezers must meet the applicable requirements listed in the following table:~~

Equipment Type	Doors	Maximum Daily Energy Consumption (kWh)
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are refrigerators	Solid	0.10V + 2.04
	Transparent	0.12V + 3.34
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are "pulldown" refrigerators	Transparent	.126V + 3.51
Reach-in cabinets, pass-through cabinets, and roll-in or roll-through cabinets that are freezers	Solid	0.40V + 1.38
	Transparent	0.75V + 4.10
Reach-in cabinets that are refrigerator-freezers with an AV of 5.19 or higher	Solid	0.27AV - 0.71

kWh = kilowatt hours

V = total volume (ft3)

AV = adjusted volume = [1.63 x freezer volume (ft3)] + refrigerator volume (ft3)

(b) For purposes of this section, "pulldown" designates products designed to take a fully stocked refrigerator with beverages at 90 degrees Fahrenheit and cool those beverages to a stable temperature of 38 degrees Fahrenheit within 12 hours or less. Daily energy consumption shall be measured in accordance with the American national standards institute/American society of heating, refrigerating and air-conditioning engineers test method 117-2002, except that the back-loading doors of pass-through and roll-through refrigerators and freezers must remain closed throughout the test, and except that the controls of all appliances must be adjusted to obtain the following product temperatures.

Product or compartment type	Integrated average product temperature in degrees Fahrenheit
Refrigerator	38 ± 2
Freezer	0 ± 2

~~((5) Metal halide lamp fixtures designed to be operated with lamps rated greater than or equal to 150 watts but less than or equal to 500 watts shall not contain a probe-start metal halide lamp ballast.~~

~~—(6)(a) Single-voltage external AC to DC power supplies shall meet the requirements in the following table:~~

Nameplate output	Minimum Efficiency in Active Mode
<1 Watt	0.49 * Nameplate Output

\geq or $=$ 1 Watt and \leq or $=$ 49 Watts	$0.09 * \ln(\text{Nameplate Output}) + 0.49$
\geq 49 Watts	0.84
	Maximum Energy Consumption in No-Load Mode
\leq 10 Watts	0.5 Watts
\geq or $=$ 10 Watts and \leq or $=$ 250 Watts	0.75 Watts

Where $\ln(\text{Nameplate Output}) =$ Natural Logarithm of the nameplate output expressed in Watts

(b) For the purposes of this section, efficiency of single-voltage external AC to DC power supplies shall be measured in accordance with the United States environmental protection agency's "Test Method for Calculating the Energy Efficiency of Single-Voltage External AC to DC and AC to AC Power Supplies," by Ecos Consulting and Power Electronics Application Center, dated August 11, 2004.

~~(7))~~ (3)(a) The lamp electrical power input of state-regulated incandescent reflector lamps shall meet the minimum average lamp efficacy requirements for federally regulated incandescent reflector lamps (~~(contained)~~) specified in 42 U.S.C. Sec. 6295(i)(1)(A)-(B).

- (b) The following types of incandescent lamps are exempt from these requirements:
 - (i) Lamps rated at fifty watts or less of the following types: BR 30, ER 30, BR 40, and ER 40;
 - (ii) Lamps rated at sixty-five watts of the following types: BR 30, BR 40, and ER 40; and
 - (iii) R 20 lamps of forty-five watts or less.

~~((8) Unit heaters must be equipped with intermittent ignition devices and must have either power venting or an automatic flue damper.))~~

(4)(a) Wine chillers designed and sold for use by an individual must meet requirements specified in the California Code of Regulations, Title 20, section 1605.3 in effect as of the effective date of this section.

(b) Wine chillers designed and sold for use by an individual shall be tested in accordance with the method specified in the California Code of Regulations, Title 20, section 1604 in effect as of the effective date of this section.

(5)(a) The standby energy consumption of bottle-type water dispensers, and point-of-use water dispensers, dispensing both hot and cold water, manufactured on or after January 1, 2010, shall not exceed 1.2 kWh/day.

(b) The test method for water dispensers shall be the environmental protection agency energy star program requirements for bottled water coolers version 1.1.

(6)(a) The standby energy consumption of hot water dispensers and mini-tank electric water heaters manufactured on or after January 1, 2010, shall be not greater than 35 watts.

- (b) This subsection does not apply to any water heater:
 - (i) That is within the scope of 42 U.S.C. Sec. 6292(a)(4) or 6311(1);
 - (ii) That has a rated storage volume of less than 20 gallons; and
 - (iii) For which there is no federal test method applicable to that type of water heater.

(c) Hot water dispensers shall be tested in accordance with the method specified in the California Code of Regulations, Title 20, section 1604 in effect as of the effective date of this section.

(d) Mini-tank electric water heaters shall be tested in accordance with the method specified in the California Code of Regulations, Title 20, section 1604 in effect as of the effective date of this section.

(7) The following standards are established for pool heaters, residential pool pumps, and portable electric spas:

- (a) Natural gas pool heaters shall not be equipped with constant burning pilots.
- (b) Residential pool pump motors manufactured on or after January 1, 2010, must meet requirements specified in the California Code of Regulations, Title 20, section 1605.3 in effect as of the effective date of this section.
- (c) Portable electric spas manufactured on or after January 1, 2010, must meet requirements specified in the California Code of Regulations, Title 20, section 1605.3 in effect as of the effective date of this section.
- (d) Portable electric spas must be tested in accordance with the method specified in the California Code of Regulations, Title 20, section 1604 in effect as of the effective date of this section.

(8)(a) The leakage rate of tub spout diverters shall be no greater than the applicable requirements shown in the following table:

Appliance	Testing Conditions	Maximum Leakage Rate
		Effective January 1, 2009
Tub spout diverters	When new	0.01 gpm
	After 15,000 cycles of diverting	0.05 gpm

(b) Showerhead tub spout diverter combinations shall meet both the federal standard for showerheads established pursuant to 42 U.S.C. Sec. 6291 et seq. and the standard for tub spout diverters specified in this section.

(9)(a) The idle energy rate of commercial hot food holding cabinets manufactured on or after January 1, 2010, shall be no greater than 40 watts per cubic foot of measured interior volume.

(b) The idle energy rate of commercial hot food holding cabinets shall be determined using ANSI/ASTM F2140-01 standard test method for the performance of hot food holding cabinets (test for idle energy rate dry test). Commercial hot food holding cabinet interior volume shall be calculated using straight line segments following the gross interior dimensions of the appliance and using the following equation: Interior height x interior width x interior depth. Interior volume shall not account for racks, air plenums, or other interior parts.

Sec. 3. RCW 19.260.050 and 2006 c 194 s 4 are each amended to read as follows:

(1) No new (~~commercial prerinse spray valve, commercial clothes washer,~~) commercial refrigerator or freezer(;) or state-regulated incandescent reflector lamp(~~,-or unit heater~~) manufactured on or after January 1, 2007, may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040. No new automatic commercial ice cube machine(~~,-single-voltage external AC to DC power supply, or metal halide lamp fixtures~~) manufactured on or after January 1, 2008, may be sold or offered for sale in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(2) On or after January 1, 2008, no new (~~commercial prerinse spray valve, commercial clothes washer,~~) commercial refrigerator or freezer(~~,-single-voltage external AC to DC power supply,;~~) or state-regulated incandescent reflector lamp(~~,-or unit heater~~) manufactured on or after January 1, 2007, may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040. On or after January 1, 2009, no new automatic commercial ice cube machine (~~or metal halide lamp fixtures~~) manufactured on or after January 1, 2008, may be installed for compensation in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040.

(3) Standards for (~~metal halide lamp fixtures and~~) state-regulated incandescent reflector lamps are effective on the dates specified in subsections (1) and (2) of this section.

(4) The following products, if manufactured on or after January 1, 2010, may not be sold or offered in the state unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040:

- (a) Wine chillers designed and sold for use by an individual;
- (b) Hot water dispensers and mini-tank electric water heaters;
- (c) Bottle-type water dispensers and point-of-use water dispensers;
- (d) Pool heaters, residential pool pumps, and portable electric spas;
- (e) Tub spout diverters; and
- (f) Commercial hot food holding cabinets.

(5) The following products, if manufactured on or after January 1, 2010, may not be installed for compensation in the state on or after January 1, 2011, unless the efficiency of the new product meets or exceeds the efficiency standards set forth in RCW 19.260.040:

- (a) Wine chillers designed and sold for use by an individual;
- (b) Hot water dispensers and mini-tank electric water heaters;
- (c) Bottle-type water dispensers and point-of-use water dispensers;
- (d) Pool heaters, residential pool pumps, and portable electric spas;
- (e) Tub spout diverters; and
- (f) Commercial hot food holding cabinets.

NEW SECTION. Sec. 4. 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."

On page 1, line 1 of the title, after "code;" strike the remainder of the title and insert "and amending RCW 19.260.020, 19.260.030, 19.260.040, and 19.260.050."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1004 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Morris spoke in favor 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. 1004, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1004, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 86; Nays, 11; Absent, 0; Excused, 1.

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

Voting nay: Representatives Condotta, DeBolt, Ericksen, Herrera, Johnson, Klippert, Orcutt, Ross, Schmick, Shea and Taylor. Excused: Representative Flannigan.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1004, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

There being no objection, House Rule 13 (C) was suspended allowing the House to work past 10:00 p.m.

The Speaker (Representative Moeller presiding) called upon Representative Morris to preside.

MESSAGE FROM THE SENATE

April 16, 2009

Mr. Speaker:

The Senate has passed:

- HOUSE BILL NO. 1050,
- SECOND SUBSTITUTE HOUSE BILL NO. 1355,
- HOUSE BILL NO. 1361,
- HOUSE BILL NO. 1888,
- HOUSE BILL NO. 2132,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

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

SECOND READING

SECOND SUBSTITUTE SENATE BILL NO. 5045, by Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Zarelli, Brown, Kauffman, Shin, Marr, King, Regala, Rockefeller, Haugen, Berkey, Eide, Kastama, Jarrett, Pridemore, McAuliffe and Ranker)

Promoting economic development and community revitalization. Revised for 2nd Substitute: Regarding community revitalization financing.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Finance was before the body for the purpose of amendment. (For committee amendment, see Journal, Day 85, April 6, 2009.)

With the consent of the House, amendment (686) to the committee amendment was withdrawn.

Representative Kelley moved the adoption of amendment (744) to the committee amendment:

On page 1, line 19 of the amendment, after "year" insert "and the additional amounts designated for demonstration projects in section 402 of this act"

On page 6, line 8 of the amendment, after "401" insert "or section 402"

On page 16, after line 20 of the amendment, insert the following: **"NEW SECTION. Sec. 402.** A new section is added to chapter 82.14 RCW to read as follows:

(1) Demonstration projects are designated to determine the feasibility of local revitalization financing. For the purpose of this section, "annual state contribution limit" means two million two hundred and fifty thousand dollars statewide per fiscal year. Notwithstanding section 401 of this act, the department shall approve each demonstration project as follows:

(a) The Whitman county Pullman/Moscow corridor improvement project award shall not exceed two hundred thousand dollars;

(b) The University Place improvement project award shall not exceed five hundred thousand dollars;

(c) The Tacoma international financial services area/Tacoma dome project award shall not exceed five hundred thousand dollars;

(d) The Bremerton downtown improvement project award shall not exceed three hundred and thirty thousand dollars;

(e) The Auburn downtown redevelopment project award shall not exceed two hundred and fifty thousand dollars;

(f) The Vancouver Columbia Waterfront/downtown project award shall not exceed two hundred and twenty thousand dollars; and

(g) The Spokane University District project award shall not exceed two hundred and fifty thousand dollars.

(2) Local government sponsors of demonstration projects must submit to the department no later than September 1, 2009, documentation that substantiates that the project has met the conditions, limitations, and requirements provided in this act.

(3) Within sixty days of such submittal, the department shall approve demonstration projects that have met these conditions, limitations, and requirements.

(4) Local government sponsors of demonstration projects may elect to decline the project awards as designated in this section, and may elect instead to submit applications according to the process described in section 401 of this act."

On page 19, line 14 of the amendment, after "(5)(a)" strike "No" and insert "Except as provided in (c) of this subsection, no"

On page 19, after line 27 of the amendment, insert the following: "(c) For a demonstration project described in section 402 of this act, no tax may be imposed under the authority of this section before:

(i) July 1, 2010; and

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

Representatives Kelley and Orcutt spoke in favor of the adoption of the amendment to the committee amendment.

Amendment (744) to the committee amendment was adopted.

The committee amendment 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 Kenney, Orcutt and Smith 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 Second Substitute Senate Bill No. 5045, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5045, as amended by the House, and the bill passed the House by the following vote: Yeas, 92; Nays, 5; Absent, 0; Excused, 1.

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

Voting nay: Representatives Condotta, Kristiansen, Roach, Santos and Shea.

Excused: Representative Flannigan.

SECOND SUBSTITUTE SENATE BILL NO. 5045, as amended by the House, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on SECOND SUBSTITUTE SENATE BILL NO. 5045.

MARALYN CHASE, 32nd District

SECOND READING

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5649, by Senate Committee on Ways & Means (originally sponsored by Senators Rockefeller, Hobbs, Pridemore, Kohl-Welles, Keiser, Fraser, Sheldon, Shin, McAuliffe, Kline and Oemig)

Regarding energy efficiency in buildings.

The bill was read the second time.

There being no objection, the committee amendment was not adopted. (For committee amendment, see Journal, Day 85, April 6, 2009.)

Amendment (618) to the committee amendment was ruled out of order.

Representative McCoy moved the adoption of amendment (711):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. FINDINGS. (1) The legislature finds that improving energy efficiency in structures is one of the most cost-effective means to meet energy requirements, and that while there have been significant efficiency savings achieved in the state over the past quarter century, there remains enormous potential to achieve even greater savings. Increased weatherization and more extensive efficiency improvements in residential, commercial, and public buildings achieves many benefits, including reducing energy bills, avoiding the construction of new electricity generating facilities with associated climate change impacts, and creation of family-wage jobs in performing energy audits and improvements.

(2) It is the intent of the legislature that financial and technical assistance programs be expanded to direct municipal, state, and federal funds, as well as electric and natural gas utility funding, toward greater achievement of energy efficiency improvements. To this end, the legislature establishes a policy goal of assisting in weatherizing twenty thousand homes and businesses in the state in each of the next five years. The legislature also intends to attain this goal in part through supporting programs that rely on community organizations and that there be maximum family-wage job creation in fields related to energy efficiency.

PART 1**Energy Efficiency Improvement Program**

NEW SECTION. Sec. 2. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Customers" means residents, businesses, and building owners.

(2) "Direct outreach" means:

(a) The use of door-to-door contact, community events, and other methods of direct interaction with customers to inform them of energy efficiency and weatherization opportunities; and

(b) The performance of energy audits.

(3) "Energy audit" means an assessment of building energy efficiency opportunities, from measures that require very little investment and without any disruption to building operation, normally involving general building operational measures, to low or relatively higher cost investment, such as installing timers to turn off equipment, replacing light bulbs, installing insulation, replacing equipment and appliances with higher efficiency equipment and appliances, and similar measures. The term includes an assessment of alternatives for generation of heat and power from renewable energy resources, including installation of solar water heating and equipment for photovoltaic electricity generation.

(4) "Energy efficiency and conservation block grant program" means the federal program created under the energy independence and security act of 2007 (P.L. 110-140).

(5) "Energy efficiency services" means energy audits, weatherization, energy efficiency retrofits, energy management systems as defined in RCW 39.35.030, and other activities to reduce a customer's energy consumption, and includes assistance with paperwork, arranging for financing, program design and development, and other postenergy audit assistance and education to help customers meet their energy savings goals.

(6) "Low-income individual" means an individual whose annual household income does not exceed eighty percent of the area median income for the metropolitan, micropolitan, or combined statistical area in which that individual resides as determined annually by the United States department of housing and urban development.

(7) "Sponsor" means any entity or group of entities that submits a proposal under section 102 of this act, including but not limited to any nongovernmental nonprofit organization, local community action agency, tribal nation, community service agency, public service company, county, municipality, publicly owned electric, or natural gas utility.

(8) "Sponsor match" means the share, if any, of the cost of efficiency improvements to be paid by the sponsor.

(9) "Weatherization" means making energy and resource conservation and energy efficiency improvements.

NEW SECTION. Sec. 3. The Washington State University extension energy program is authorized to implement grants for pilot programs providing community-wide urban residential and commercial energy efficiency upgrades. The Washington State University extension energy program must coordinate and collaborate with the department of community, trade, and economic development on the design, administration, and implementation elements of the pilot program.

(1) There must be at least three grants for pilot programs, awarded on a competitive basis to sponsors for conducting direct outreach and delivering energy efficiency services that, to the extent feasible, ensure a balance of participation for: (a) Geographic regions in the state; (b) types of fuel used for heating; (c) owner-occupied and rental residences; (d) small commercial buildings; and (e) single-family and multifamily dwellings.

(2) The pilot programs must:

(a) Provide assistance for energy audits and energy efficiency-related improvements to structures owned by or used for residential, commercial, or nonprofit purposes in specified urban neighborhoods where the objective is to achieve a high rate of participation among building owners within the pilot area;

(b) Utilize volunteer support to reach out to potential customers through the use of community-based institutions;

(c) Employ qualified energy auditors and energy efficiency service providers to perform the energy audits using recognized energy efficiency and weatherization services that are cost-effective;

(d) Select and provide oversight of contractors to perform energy efficiency services. Sponsors shall give preference to contractors that participate in quality control and efficiency training, use workers trained from workforce training and apprentice programs established under chapter . . . , Laws of 2009 (Engrossed Second Substitute House Bill No. 2227) if these workers are available, pay prevailing wages, hire from the community in which the program is located, and create employment opportunities for veterans, members of the national guard, and low-income and disadvantaged populations; and

(e) Work with customers to secure financing for their portion of the project and apply for and administer utility, public, and charitable funding provided for energy audits and retrofits.

(3) The Washington State University extension energy program must give priority to sponsors that can secure a sponsor match of at least one dollar for each dollar awarded.

(a) A sponsor may use its own moneys, including corporate or ratepayer moneys, or moneys provided by landlords, charitable groups, government programs, the Bonneville power administration, or other sources to pay the sponsor match.

(b) A sponsor may meet its match requirement in whole or in part through providing labor, materials, or other in-kind expenditures.

(4)(a) Pilot programs receiving funding must report compliance with performance metrics for each sponsor receiving a grant award. The performance metrics include:

- (i) Monetary and energy savings achieved;
- (ii) Savings-to-investment ratio achieved for customers;
- (iii) Wage levels of jobs created;
- (iv) Utilization of preapprentice and apprenticeship programs;

and

(v) Efficiency and speed of delivery of services.

(b) Pilot programs receiving funding under this section are required to report to the Washington State University energy extension program on compliance with the performance metrics every six months following the receipt of grants, with the last report submitted six months after program completion.

(c) The Washington State University extension energy program shall review the accuracy of these reports and provide a progress report on all grant pilot programs to the appropriate committees of the legislature by December 1st of each year.

(5)(a) By December 1, 2009, the Washington State University extension energy program shall provide a report to the governor and appropriate legislative committees on the: Number of grants awarded; number of jobs created or maintained; number and type of individuals trained through workforce training and apprentice programs; number of veterans, members of the national guard, and individuals of low-income and disadvantaged populations employed by pilot programs; and amount of funding provided through the grants as established in subsection (1) of this section and the performance metrics established in subsection (4) of this section.

(b) By December 1, 2010, the Washington State University extension energy program shall provide a final report to the governor and appropriate legislative committees on the: Number of grants awarded; number of jobs created or maintained; number and type of individuals trained through workforce training and apprentice programs; number of veterans, members of the national guard, and individuals of low-income and disadvantaged populations employed

by pilot programs; and amount of funding provided through the grants as established in subsection (1) of this section and the performance metrics established in subsection (4) of this section.

NEW SECTION. Sec. 4. FARM ENERGY ASSESSMENTS.

(1) The legislature finds that increasing energy costs put farm viability and competitiveness at risk and that energy efficiency improvements on the farm are the most cost-effective way to manage these costs. The legislature further finds that current on-farm energy efficiency programs often miss opportunities to evaluate and conserve all types of energy, including fuels and fertilizers.

(2) The Washington State University extension energy program, in consultation with the department of agriculture, shall form an interdisciplinary team of agricultural and energy extension agencies to develop and offer new methods to help agricultural producers assess their opportunities to increase energy efficiency in all aspects of their operations. The interdisciplinary team must develop and deploy:

(a) Online energy self-assessment software tools to allow agricultural producers to assess whole-farm energy use and to identify the most cost-effective efficiency opportunities;

(b) Energy auditor training curricula specific to the agricultural sector and designed for use by agricultural producers, conservation districts, agricultural extensions, and commodity groups;

(c) An effective infrastructure of trained energy auditors available to assist agricultural producers with on-farm energy audits and identify cost-share assistance for efficiency improvements; and

(d) Measurement systems for cost savings, energy savings, and carbon emission reduction benefits resulting from efficiency improvements identified by the interdisciplinary team.

(3) The Washington State University extension energy program shall seek to obtain additional resources for this section from federal and state agricultural assistance programs and from other sources.

(4) The Washington State University extension energy program shall provide technical assistance for farm energy assessment activities as specified in this section.

PART 2

Low-Income Weatherization Programs

Sec. 5. RCW 70.164.020 and 1995 c 399 s 199 are each amended to read as follows:

~~(Unless the context clearly requires otherwise,)~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Credit enhancement" means instruments that enhance the security for the payment of the lender's obligations and includes, but is not limited to insurance, letters of credit, lines of credit, or other similar agreements.

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

~~((2))~~ (3) "Direct outreach" means:

(a) The use of door-to-door contact, community events, and other methods of direct interaction with customers to inform them of energy efficiency and weatherization opportunities; and

(b) The performance of energy audits.

(4) "Energy ((assessment)) audit" means an analysis of a dwelling unit to determine the need for cost-effective energy conservation measures as determined by the department.

~~((3))~~ (5) "Energy efficiency services" means energy audits, weatherization, energy efficiency retrofits, energy management systems as defined in RCW 39.35.030, and other activities to reduce a customer's energy consumption, and includes assistance with

paperwork, arranging for financing, program design and development, and other postenergy audit assistance and education to help customers meet their energy savings goals.

(6) "Financial institution" means any person doing business under the laws of this state or the United States relating to banks, bank holding companies, savings banks, trust companies, savings and loan associations, credit unions, consumer loan companies, equipment leasing and project finance and the affiliates, subsidiaries, and service corporations thereof.

(7) "Household" means an individual or group of individuals living in a dwelling unit as defined by the department.

~~((4))~~ (8) "Low income" means household income ~~((that is at or below one hundred twenty-five percent of the federally established poverty level))~~ as defined by the department, provided that the definition may not exceed eighty percent of median household income, adjusted for household size, for the county in which the dwelling unit to be weatherized is located.

~~((5))~~ (9) "Nonutility sponsor" means any sponsor other than a public service company, municipality, public utility district, mutual or cooperative, furnishing gas or electricity used to heat low-income residences.

~~((6))~~ (10) "Residence" means a dwelling unit as defined by the department.

~~((7))~~ (11) "Sponsor" means any entity that submits a proposal under RCW 70.164.040, including but not limited to any local community action agency, tribal nation, community service agency, or any other participating agency or any public service company, municipality, public utility district, mutual or cooperative, or any combination of such entities that jointly submits a proposal.

~~((8))~~ (12) "Sponsor match" means the share~~((, if any,))~~ of the cost of weatherization to be paid by the sponsor.

~~((9))~~ (13) "Sustainable residential weatherization" or "weatherization" means ~~((materials or measures, and their installation, that are used to improve the thermal efficiency of a residence))~~ activities that use funds administered by the department for one or more of the following: (a) Energy and resource conservation; (b) energy efficiency improvements; (c) repairs, indoor air quality improvements, and health and safety improvements; and (d) client education. Funds administered by the department for activities authorized under this subsection may only be used for the preservation of a dwelling unit occupied by a low-income household and must, to the extent feasible, be used to support and advance sustainable technologies.

~~((10))~~ (14) "Weatherizing agency" means any approved department grantee, tribal nation, or any public service company, municipality, public utility district, mutual or cooperative, or other entity that bears the responsibility for ensuring the performance of weatherization of residences under this chapter and has been approved by the department.

Sec. 6. RCW 70.164.040 and 1987 c 36 s 4 are each amended to read as follows:

(1) The department shall solicit proposals for low-income weatherization programs from potential sponsors. A proposal shall state the amount of the sponsor match, the amount requested ~~((from the low-income weatherization assistance account))~~, the name of the weatherizing agency, and any other information required by the department.

(2)(a) A sponsor may use its own moneys, including corporate or ratepayer moneys, or moneys provided by landlords, charitable groups, government programs, the Bonneville power administration, or other sources to pay the sponsor match.

(b) Moneys provided by a sponsor pursuant to requirements in this section shall be in addition to and shall not supplant any funding for low-income weatherization that would otherwise have been provided by the sponsor or any other entity enumerated in (a) of this subsection.

(c) No proposal may require any contribution as a condition of weatherization from any household whose residence is weatherized under the proposal.

(d) Proposals shall provide that full levels of all cost-effective, structurally feasible, sustainable residential weatherization materials, measures, and practices, as determined by the department, shall be installed when a low-income residence is weatherized.

(3)(a) The department may in its discretion accept, accept in part, or reject proposals submitted. The department shall allocate funds appropriated from the low-income weatherization assistance account among proposals accepted or accepted in part so as to:

(i) Achieve the greatest possible expected monetary and energy savings by low-income households and other energy consumers ~~((and))~~ over the longest period of time;

(ii) Identify and correct, to the extent practical, health and safety problems for residents of low-income households, including asbestos, lead, and mold hazards;

(iii) Create family-wage jobs that may lead to careers in the construction trades or in the energy efficiency sectors; and

(iv) Leverage, to the extent feasible, environmentally friendly sustainable technologies, practices, and designs.

(b) The department shall, to the extent feasible, ensure a balance of participation in proportion to population among low-income households for: ~~((a))~~ (i) Geographic regions in the state; ~~((b))~~ (ii) types of fuel used for heating, except that the department shall encourage the use of energy efficient sustainable technologies; ~~((c))~~ (iii) owner-occupied and rental residences; and ~~((d))~~ (iv) single-family and multifamily dwellings.

(c) The department shall give priority to the weatherization of dwelling units occupied by low-income households with incomes at or below one hundred twenty-five percent of the federally established poverty level.

(d) The department may allocate funds to a nonutility sponsor without requiring a sponsor match if the department determines that such an allocation is necessary to provide the greatest benefits to low-income residents of the state.

(e) The department shall give preference to sponsors that employ individuals trained from workforce training and apprentice programs established under chapter . . . , Laws of 2009 (Engrossed Second Substitute House Bill No. 2227) if these workers are available, and create employment opportunities for veterans, members of the national guard, and low-income and disadvantaged populations.

(4)(a) A sponsor may elect to: (i) Pay a sponsor match as a lump sum at the time of weatherization, or (ii) make yearly payments to the low-income weatherization assistance account over a period not to exceed ten years. If a sponsor elects to make yearly payments, the value of the payments shall not be less than the value of the lump sum payment that would have been made under (a)(i) of this subsection.

(b) The department may permit a sponsor to meet its match requirement in whole or in part through providing labor, materials, or other in-kind expenditures.

(5) Programs receiving funding under this section must report to the department every six months following the receipt of a grant regarding the number of dwelling units weatherized, the number of jobs created or maintained, and the number of individuals trained through workforce training and apprentice programs, with the last

report submitted six months after program completion. The director of the department shall review the accuracy of these reports.

(6) The department shall adopt rules to carry out this section.

Sec. 7. RCW 70.164.050 and 1987 c 36 s 5 are each amended to read as follows:

(1) The department is responsible for ensuring that sponsors and weatherizing agencies comply with the state laws, the department's rules, and the sponsor's proposal in carrying out proposals.

(2) Before a residence is weatherized, the department shall require that an energy ((~~assessment~~) audit) be conducted.

(3) To the greatest extent practicable and allowable under federal rules and regulations, the department shall maximize available federal low-income home energy assistance program funding for weatherization projects.

Sec. 8. RCW 70.164.060 and 1987 c 36 s 6 are each amended to read as follows:

Before a leased or rented residence is weatherized, written permission shall be obtained from the owner of the residence for the weatherization. The department shall adopt rules to ensure that: (1) The benefits of weatherization assistance (~~(in connection with a leased or rented residence)~~), including utility bill reduction and preservation of affordable housing stock, accrue primarily to low-income tenants occupying a leased or rented residence; (2) as a result of weatherization provided under this chapter, the rent on the residence is not increased and the tenant is not evicted; and (3) as a result of weatherization provided under this chapter, no undue or excessive enhancement occurs in the value of the residence. This section is in the public interest and any violation by a landlord of the rules adopted under this section shall be an act in trade or commerce violating chapter 19.86 RCW, the consumer protection act.

NEW SECTION. Sec. 9. A new section is added to chapter 70.164 RCW to read as follows:

(1) The department must: (a) Establish a process to award grants on a competitive basis to provide grants to financial institutions for the purpose of creating credit enhancements, such as loan loss reserve funds as specified in sections 206 and 208 of this act, and consumer financial products and services that will be used to obtain energy efficiency services; and (b) develop criteria, in consultation with the department of financial institutions, regarding the extent to which funds will be provided for the purposes of credit enhancements and set forth principles for accountability for financial institutions receiving funding for credit enhancements.

(2) The department must:

(a) Give priority to financial institutions that provide both consumer financial products or services and direct outreach;

(b) Approve any financing mechanisms offered by local municipalities under section 208 of this act; and

(c) Require any financial institution or other entity receiving funding for credit enhancements to:

(i) Provide books, accounts, and other records in such a form and manner as the department may require;

(ii) Provide an estimate of projected loan losses; and

(iii) Provide the financial institution's plan to manage loan loss risks, including the rationale for sizing a loan loss reserve and the use of other credit enhancements, as applicable.

NEW SECTION. Sec. 10. A new section is added to chapter 70.164 RCW to read as follows:

PROMOTING THE INVOLVEMENT OF FINANCIAL INSTITUTIONS IN FINANCING ENERGY EFFICIENCY PROJECTS--FINDINGS AND INTENT. (1) The legislature finds that the creation and use of risk reduction mechanisms will promote greater involvement of local financial institutions and other financing

mechanisms in funding energy efficiency improvements and will achieve greater leverage of state and federal dollars. Risk reduction mechanisms will allow financial institutions to lend to a broader pool of applicants on more attractive terms, such as potentially lower rates and longer loan terms. Placing a portion of funds in long-term risk reduction mechanisms will support a sustained level of energy efficiency investment by financial institutions while providing funding to projects quickly.

(2) It is the intent of the legislature to leverage new federal funding aimed at promoting energy efficiency projects, improving energy efficiency, and increasing family-wage jobs. To this end, the legislature intends to invest a portion of all federal funding, subject to federal requirements, for energy efficiency projects in financial mechanisms that will provide for maximum leverage of financing.

NEW SECTION. Sec. 11. A new section is added to chapter 70.164 RCW to read as follows:

The department may create an appliance efficiency rebate program with available funds from the energy efficient appliances rebate program authorized under the federal energy policy act of 2005 (P.L. 109-58).

NEW SECTION. Sec. 12. A new section is added to chapter 70.164 RCW to read as follows:

PROMOTING THE INVOLVEMENT OF FINANCIAL INSTITUTIONS IN FINANCING ENERGY EFFICIENCY PROJECTS. (1) Local municipalities receiving federal stimulus moneys through the federal energy efficiency and conservation block grant program or state energy program are authorized to use those funds, subject to federal requirements, to establish loan loss reserves or toward risk reduction mechanisms, such as loan loss reserves, to leverage financing for energy efficiency projects.

(2) Interest rate subsidies, financing transaction cost subsidies, capital grants to energy users, and other forms of grants and incentives that support financing energy efficiency projects are authorized uses of federal energy efficiency funding.

(3) Financing mechanisms offered by local municipalities under this section must conform to all applicable state and federal rules and regulations.

NEW SECTION. Sec. 13. A new section is added to chapter 70.164 RCW to read as follows:

PROMOTING THE INVOLVEMENT OF STATE-CHARTERED BOND AUTHORITIES IN FINANCING ENERGY EFFICIENCY PROJECTS. (1) The legislature finds that the state bond authorities have capacities that can be applied to financing energy efficiency projects for their respective eligible borrowers: Washington economic development finance authority for industry; Washington state housing finance commission for single-family and multifamily housing, commercial properties, agricultural properties, and nonprofit facilities; Washington higher education facilities authority for private, nonprofit higher education; and Washington health care facilities authority for hospitals and all types of health clinics.

(2)(a) Subject to federal requirements, the state bond authorities may accept and administer an allocation of the state's share of the federal energy efficiency funding for designing energy efficiency finance loan products and for developing and operating energy efficiency finance programs. The state bond authorities shall coordinate with the department on the design of the bond authorities' program.

(b) The department may make allocations of the federal funding to the state bond authorities and may direct and administer funding for outreach, marketing, and delivery of energy services to support the programs by the state bond authorities.

(c) The legislature authorizes a portion of the federal energy efficiency funds to be used by the state bond authorities for credit enhancements and reserves for such programs.

(3) The Washington state housing finance commission may:

(a) Issue revenue bonds as the term "bond" is defined in RCW 43.180.020 for the purpose of financing loans for energy efficiency and renewable energy improvement projects in accordance with RCW 43.180.150;

(b) Establish eligibility criteria for financing that will enable it to choose applicants who are likely to repay loans made or acquired by the commission and funded from the proceeds of federal funds or commission bonds; and

(c) Participate fully in federal and other governmental programs and take such actions as are necessary and consistent with chapter 43.180 RCW to secure to itself and the people of the state the benefits of programs to promote energy efficiency and renewable energy technologies.

PART 3

Energy Efficiency in Publicly Funded Housing

NEW SECTION. Sec. 14. A new section is added to chapter 43.185 RCW to read as follows:

ENERGY AUDITS AND RETROFITS IN PUBLICLY FUNDED HOUSING. (1) The legislature finds that growing preservation and rehabilitation needs in the housing trust fund property portfolio provide opportunities to advance energy efficiency and weatherization efforts for low-income individuals in Washington state while protecting the state's six hundred million dollars in affordable housing investments. Preservation of existing affordable housing, when done in conjunction with weatherization activities, is a cost-effective, prudent, and environmentally friendly strategy to ensure that low-income housing remains durable, safe, and affordable. Therefore, the legislature intends that where federal funds are available for increasing and improving energy efficiency of low-income housing that these funds must be utilized, subject to federal requirements, for energy audits and implementing energy efficiency measures in the state housing trust fund real estate portfolio.

(2) The department shall review all housing properties in the housing trust fund real estate portfolio and identify those in need of major renovation or rehabilitation. In its review, the department shall survey property owners for information including, but not limited to, the age of the building and the type of heating, cooling, plumbing, and electrical systems contained in the property. The department shall prioritize all renovation or rehabilitation projects identified in the review by the department's ability to:

(a) Achieve the greatest possible expected monetary and energy savings by low-income households and other energy consumers over the greatest period of time;

(b) Promote the greatest possible health and safety improvements for residents of low-income households; and

(c) Leverage, to the extent feasible, technologically advanced and environmentally friendly sustainable technologies, practices, and designs.

(3) Subject to the availability of amounts appropriated for this specific purpose, the department shall use the prioritization of potential energy efficiency needs and opportunities in subsection (2) of this section to make offers of energy audit services to project owners and operators. The department shall use all practicable means to achieve the completion of energy audits in at least twenty-five percent of the properties in its portfolio that exceed twenty-five years in age, by June 30, 2011. Where the energy audits identify cost-

effective weatherization and other energy efficiency measures, the department shall accord a priority within appropriated funding levels to include funding for energy efficiency improvements when the department allocates funding for renovation or rehabilitation of the property.

PART 4

Miscellaneous

NEW SECTION. Sec. 15. Sections 101 through 103 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 16. Captions and part headings used in this act are not any part of the law.

NEW SECTION. Sec. 17. A new section is added to chapter 43.06 RCW to read as follows:

The governor shall designate an existing full-time equivalent position within state government as the single point of accountability for all energy and climate change initiatives within state agencies. All agencies, councils, or work groups with energy or climate initiatives must coordinate with the person in this designated position.

NEW SECTION. Sec. 18. 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. 19. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Representative McCoy moved the adoption of amendment (731) to amendment (711):

On page 3, line 31 of the striking amendment, after "shall" strike "give preference to contractors that" and insert "require contractors to"

On page 3, line 36 of the striking amendment, after "wages" insert "under chapter 39.12 RCW"

On page 9, line 26 of the striking amendment, after "shall" strike "give preference to sponsors that" and insert "require sponsors to"

On page 9, line 29 of the striking amendment, after "available," insert "pay prevailing wages under chapter 39.12 RCW, hire from the community in which the program is located,"

Representatives McCoy and Condotta spoke in favor of the adoption of the amendment to amendment (711).

Amendment (731) to amendment (711) was adopted.

Representative McCoy moved the adoption of amendment (746) to amendment (711):

On page 11, line 4 of the striking amendment, after "chapter" strike "70.164" and insert "43.330"

On page 11, line 29 of the striking amendment, after "chapter" strike "70.164" and insert "43.330"

On page 12, line 13 of the striking amendment, after "chapter" strike "70.164" and insert "43.330"

On page 12, line 19 of the striking amendment, after "chapter" strike "70.164" and insert "43.330"

On page 13, line 1 of the striking amendment, after "chapter" strike "70.164" and insert "43.330"

Representatives McCoy and Crouse spoke in favor of the adoption of the amendment to amendment (711).

Amendment (746) to amendment (711) was adopted.

Amendment (711) 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 McCoy and Conway spoke in favor of the passage of the bill.

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

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5649, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5649, as amended by the House, and the bill passed the House by the following vote: Yeas, 63; Nays, 34; Absent, 0; Excused, 1.

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

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

Excused: Representative Flannigan.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5649, as amended by the House, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5921, by Senate Committee on Economic Development, Trade & Innovation (originally sponsored by Senators Rockefeller, Pridemore, Ranker, Kline and Kohl-Welles)

Creating a clean energy collaborative. Revised for 1st Substitute: Creating a clean energy leadership initiative.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Technology, Energy & Communications was adopted. (For committee amendment, see Journal, Day 75, March 27, 2009.)

Representative McCoy moved the adoption of amendment (710):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that Washington is recognized as a leader in sustainability and climate change and has the foundation to become a leader in the clean energy technologies, products, and services that will be required throughout the world to provide reliable and reduced-emission energy. However, to become a leader, Washington will need policies and strategies to develop new clean energy technologies, attract federal and private investments, attract and grow clean energy companies, and create green jobs.

The legislature further finds that positioning Washington to be competitive for federal and private sector clean energy investments will require collaboration between Washington's state agencies, clean energy technology companies, research institutions, national laboratory, and workforce development system to identify our strengths and develop the requisite policies and strategies.

It is the intent of the legislature to create a clean energy leadership initiative that will set the path to leverage Washington's energy infrastructure and make Washington a hub for clean energy technology and a leader in the creation of green jobs and the development, deployment, and export of clean energy technologies and services.

NEW SECTION. Sec. (1) The office of the governor, in collaboration with a statewide, public-private alliance, shall convene a clean energy leadership council to prepare a strategy for growing the clean energy technology sector in Washington state. The clean energy leadership council shall be supported by public and private resources including, to the extent available, the resources of the energy policy division of the department of community, trade, and economic development and Washington State University's energy program. The governor, in consultation with the public-private alliance, shall appoint and convene the council by July 31, 2009.

(2) The clean energy leadership council must develop strategies and recommendations for growing Washington's clean energy sector. The clean energy leadership council must consist of the following clean energy leaders:

(a) Up to ten representatives of companies in the clean energy sector;

(b) Representatives of two organizations providing support to clean energy companies; and

(c) One representative from each of the following: A public university; the Pacific Northwest national laboratory; a venture capital firm making investments in clean energy companies; and a professional services firm serving clean energy technology.

(3) The clean energy leadership council must also include the following members:

(a) Four members of the legislature, with one member from each caucus of the house of representatives appointed by the speaker of the house of representatives and one member from each caucus of the senate appointed by the president of the senate;

(b) The director of the department of community, trade, and economic development or its successor agency;

(c) The governor's designee for energy and climate change initiatives within state government; and

(d) One representative from the economic development commission.

(4) The clean energy leadership council must be cochaired by:
(a) A representative of the clean energy sector, selected by the

members of the clean energy leadership council; and (b) the director of the department of community, trade, and economic development or its successor agency.

(5) The clean energy leadership council must designate one of its members as its representative on the evergreen jobs leadership team to ensure that the efforts of the clean energy leadership council align with the work of the evergreen jobs leadership team in coordinating the state's effort to lead in the green economy.

(6) The clean energy leadership council may appoint such advisory groups as it deems necessary to carry out its work.

(7) The clean energy leadership council shall:

(a) Conduct a strategic analysis to identify the clean energy industry segments where Washington can either provide national leadership or become one of the top ten states in that segment. The council shall contract with national experts with detailed knowledge of energy markets and other states' operations to conduct the strategic analysis. The strategic analysis must:

(i) Identify where Washington has a competitive advantage or emerging strength in research, development, or deployment of clean energy solutions;

(ii) Evaluate Washington's competitiveness in its business environment, including regulatory requirements, as it relates to supporting clean energy projects and companies, compared to other states and regions; and

(iii) Evaluate Washington's ability to provide national leadership in reducing carbon emissions, developing and deploying utility-scale clean energy applications, and creating exportable products and applications;

(b) Develop a set of strategic recommendations, including implementation steps and responsible parties for carrying them out. The strategic recommendations must provide direction for positioning each clean energy segment identified to provide national leadership and must include a delineation of clear, specific outcomes for each segment to achieve. The strategic recommendations must include recommendations on:

(i) Consistent policy frameworks that provide stability to encourage investment through a combination of incentives, regulation, taxation, and use of government purchasing power to build viable markets;

(ii) The steps necessary for increasing Washington's ability to obtain available competitive federal funds;

(iii) The development of public-private partnerships that can help each sector grow, including partnerships to facilitate development and deployment of new technologies at scale;

(iv) Necessary investments in universities;

(v) Management, entrepreneurial, and emerging business needs;

(vi) Joint use facilities, demonstration facilities, and signature research centers that are needed for leadership;

(vii) Market access requirements;

(viii) Infrastructure needs; and

(ix) Capital and financing requirements;

(c) Recommend an institutional mechanism to foster effective implementation of its recommendations, including organizational structure, staffing, and funding;

(d) Review investments made by the energy policy division of the department of community, trade, and economic development, Washington State University's energy program, utilities, and other entities to identify ways to leverage, increase the effectiveness of, or redirect those funds to increase the state's competitiveness in clean energy technology; and

(e) Make recommendations on potential clean energy programs and projects for possible federal funding through the state energy program, consistent with federal requirements and guidelines.

(8)(a) By December 1, 2009, the clean energy leadership council shall submit an interim clean energy strategy and initial recommendations to the governor and appropriate committees of the legislature.

(b) By December 1, 2010, the clean energy leadership council shall complete and submit its final clean energy strategy and recommendations to the governor and appropriate committees of the legislature.

NEW SECTION. Sec. (1) The energy policy division of the department of community, trade, and economic development, or its successor agency, must consider the clean energy leadership strategy developed under section 2 of this act when preparing its application for federal state energy program funding and determining the type and number of clean energy projects to fund.

(2) The energy policy division of the department of community, trade, and economic development, or its successor agency, must consult the clean energy leadership council prior to awarding federal energy stimulus funding for clean energy projects.

NEW SECTION. Sec. (1) The governor shall designate an existing full-time equivalent position within state government as the single point of accountability for all energy and climate change initiatives within state agencies. All agencies, councils, or work groups with energy or climate change initiatives must coordinate with the person in this designated position.

(2) The person designated by the governor under subsection (1) of this section shall chair the evergreen jobs leadership team established in section 3, chapter . . . (Engrossed Second Substitute House Bill No. 2227), Laws of 2009.

NEW SECTION. Sec. This act expires December 31, 2011.

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

Correct the title.

Representative McCoy moved the adoption of amendment (719) to amendment (710):

On page 2, line 37 of the striking amendment, after "(6)" insert "Legislators shall not receive any compensation, including reimbursement of expenses, for their participation on the clean energy leadership council.

(7)"

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

Representatives McCoy and Haler spoke in favor of the adoption of the amendment to amendment (710).

Amendment (719) to amendment (710) was adopted.

Representative Haler moved the adoption of amendment (728) to amendment (710):

On page 4, line 7 of the striking amendment, after "(d)" insert "Evaluate the restoration and redevelopment of unfinished nuclear power project sites for the purpose of creating a carbonless energy park and creating four next generation nuclear generation facilities by 2050;

(e)"

Reletter the remaining subsections consecutively and correct any internal references accordingly.

Representative Haler spoke in favor of the adoption of the amendment to amendment (710).

Representative McCoy spoke against the adoption of the amendment to amendment (710).

Amendment (728) to amendment (710) was not adopted.

Representative McCoy moved the adoption of amendment (739) to amendment (710):

On page 4, line 25 of the striking amendment, after "strategy" insert "once it is"

On page 4, line 31 of the striking amendment, after "council" insert ", once it has been convened,"

Representatives McCoy and Haler spoke in favor of the adoption of the amendment to amendment (710).

Amendment (739) to amendment (710) was adopted.

Amendment (710) 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.

Representative McCoy spoke in favor of the passage of the bill.

Representative Haler spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5921, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5921, as amended by the House, and the bill passed the House by the following vote: Yeas, 64; Nays, 33; Absent, 0; Excused, 1.

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

Voting nay: Representatives Alexander, Angel, Armstrong, Bailey, Chandler, Condotta, Cox, Crouse, DeBolt, Erickson, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Roach, Ross, Schmick, Shea, Short, Smith, Taylor, Wallace, Walsh and Warnick.

Excused: Representative Flannigan.

SUBSTITUTE SENATE BILL NO. 5921, as amended by the House, having received the necessary constitutional majority, was declared passed.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5560, by Senate Committee on Ways & Means (originally sponsored by Senators Ranker, Swecker, Brown, Hargrove, Pridemore, Marr, Kilmer, Rockefeller, Kauffman, Haugen, Eide, Hobbs, Kohl-Welles, Jarrett, Fraser, Jacobsen and Murray)

Regarding state agency climate leadership.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Agriculture & Natural Resources was before the House for purpose of amendment. (For committee amendment, see Journal, Day 85, April 6, 2009.)

With the consent of the House, amendments (715), (732), (733), (734) and (709) to the committee amendment were withdrawn.

Representative Chase moved the adoption of amendment (759) to the committee amendment:

On page 2, after line 38 of the striking amendment, insert the following:

"Sec. 3. RCW 70.235.010 and 2008 c 14 s 2 are each amended to read as follows:

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

(1) "Carbon dioxide equivalents" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

(2) "Climate advisory team" means the stakeholder group formed in response to executive order 07-02.

(3) "Climate impacts group" means the University of Washington's climate impacts group.

(4) "Department" means the department of ecology.

(5) "Direct emissions" means emissions of greenhouse gases from sources of emissions, including stationary combustion sources, mobile combustion emissions, process emissions, and fugitive emissions.

(6) "Director" means the director of the department.

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

(8) "Indirect emissions" means emissions of greenhouse gases associated with the purchase of electricity, heating, cooling, or steam.

(9) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of the state.

(10) "Program" means the department's climate change program.

(11) "Small-scale powered equipment" means a tool or other nonroad or marine machine powered by a gasoline, diesel, or propane spark ignition engine that has a standard manufacturer's listed horsepower rating of fifty horsepower or less. Examples of the term "small-scale powered equipment" include, but are not limited to, the following items when the components of the definition are satisfied: Lawnmowers, string trimmers, leaf blowers, air compressors, chainsaws, turf equipment, and lawn and garden tractors.

(12) "Total emissions of greenhouse gases" means all direct emissions and all indirect emissions.

((12)) (13) "Western climate initiative" means the collaboration of states, Canadian provinces, Mexican states, and tribes to design a multisector market-based mechanism as directed under the western regional climate action initiative signed by the governor on February 22, 2007.

NEW SECTION. Sec. 4. A new section is added to chapter 70.235 RCW to read as follows:

(1) As part of satisfying the requirements of section 2 of this act, state agencies are, except as otherwise provided in this section, prohibited from purchasing small-scale powered equipment if the market offers an alternative item that is powered by an electrical cord or rechargeable battery.

(2)(a) The top administrative official of a state agency may waive the provisions of this section on a case-by-case basis if the top administrative official of the agency publishes a finding in the Washington State Register explaining the details as to why the purchase or use of the small-scale powered equipment was necessary and why the use of an electric-based alternative would have been impractical.

(b) The Washington State Register publication requirements of this section may be satisfied with one annual publication summarizing all instances where the requirements of this section were waived by the top administrative official in the preceding year.

(3) As a demonstration to other state agencies as to how the requirements of this section may be achieved, the department of general administration shall suspend the use of all spark ignition push lawnmowers, string trimmers, and leaf blowers on the capitol campus by October 1, 2009. The department of general administration shall document its transition from small-scale powered equipment to electrical or manual alternatives to aid other state agencies in their implementation of this section."

Renumber the sections consecutively and correct any internal references.

Representative Chase spoke in favor of the adoption of the amendment to the committee amendment.

COLLOQUY

Representative Short: "In section 3, it lists RCW 70.235.010. My question is whether or not the section she is amending to take out the powered equipment, whether or not that applies to private individuals? Or is this just a function of state government under that RCW?"

Representative Chase: "This is state only."

Representative Short spoke against the adoption of the amendment to the committee amendment

Division was demanded and the demand was sustained.

The Speaker (Representative Morris presiding) divided the House. The result was 57 – YEAS; 40 – NAYS.

Amendment (759) to the committee amendment was adopted.

Representative Alexander moved the adoption of amendment (716) to the committee amendment:

On page 3, beginning on line 31 of the amendment, after "agency." strike all material through "business." on line 34 and insert "~~((Such policies shall include but not be limited to a definition of what constitutes authorized use of a state owned or controlled passenger motor vehicle and other motor vehicles on official state business.))~~"

On page 4, line 5 of the amendment, after "vehicles." insert "State agencies must balance the life-cycle cost, ability to receive competent maintenance, vehicle durability, and a vehicle's ability to satisfy its purpose, as well as the miles per gallon when creating strategies and purchasing vehicles."

Representative Alexander spoke in favor of the adoption of the amendment to the committee amendment.

Representative Uptegrove spoke against the adoption of the amendment to the committee amendment.

Amendment (716) to the committee amendment was not adopted.

Representative Rolfes moved the adoption of amendment (730) to the committee amendment:

On page 5, beginning on line 1 of the striking amendment, strike all of sections 5 through 8

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

Correct the title.

Representatives Rolfes and Short spoke in favor of the adoption of the amendment to the committee amendment.

Amendment (730) to the committee amendment was adopted.

Representative Short moved the adoption of amendment (745) to the committee amendment:

On page 7, after line 7 of the amendment, insert the following: "**NEW SECTION. Sec. 9.** The department of general administration must perform energy performance monitoring from July 2009 to July 2011 on each building that has completed an energy audit and installed energy conservation measures within the last five years and report to the legislature on the cost of the energy conservation measures, the projected energy savings, and the actual energy savings realized."

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

Representatives Short and Dunshee spoke in favor of the adoption of the amendment to the committee amendment.

Amendment (745) to the committee amendment was adopted.

Representative Dunshee moved the adoption of amendment (623) to the committee amendment:

On page 7, after line 24 of the amendment, insert the following: "**NEW SECTION. Sec. 10.** A new section is added to chapter 70.235 RCW to read as follows:

Beginning in 2010, when distributing capital funds through competitive programs for infrastructure and economic development

projects, all state agencies must consider whether the entity receiving the funds has adopted policies to reduce greenhouse gas emissions. Agencies also must consider whether the project is consistent with:

(1) The state's limits on the emissions of greenhouse gases established in RCW 70.235.020;

(2) Statewide goals to reduce annual per capita vehicle miles traveled by 2050, in accordance with RCW 47.01.440, except that the agency shall consider whether project locations in rural counties, as defined in RCW 43.160.020, will maximize the reduction of vehicle miles traveled; and

(3) Applicable federal emissions reduction requirements."

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

Representative Dunshee spoke in favor of the adoption of the amendment to the committee amendment.

Representatives Short, Orcutt and Schmick spoke against the adoption of the amendment to the committee amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (623) to the committee amendment to Engrossed Second Substitute Senate Bill No. 5560.

ROLL CALL

The Clerk called the roll on the adoption of amendment (623) to the committee amendment to Engrossed Second Substitute Senate Bill No. 5560 and the amendment was adopted by the following vote: Yeas, 53; Nays, 44; Absent, 0; Excused, 1.

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

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

Excused: Representative Flannigan.

Amendment (623) to the committee amendment was adopted.

Representative Rolfes moved the adoption of amendment (729) to the committee amendment:

On page 7, after line 24 of the amendment, insert the following:

"(3) The legislature further finds that state agency leadership is needed in the development of preparation and adaptation actions for climate change to ensure the economic health, safety, and environmental well-being of the state and its citizens.

NEW SECTION. Sec. 10. (1) The departments of ecology, agriculture, community, trade, and economic development, fish and

wildlife, natural resources, and transportation shall develop an integrated climate change response strategy to better enable state and local agencies, public and private businesses, nongovernmental organizations, and individuals to prepare for, address, and adapt to the impacts of climate change. The integrated climate change response strategy should be developed, where feasible and consistent with the direction of the strategy, in collaboration with local government agencies with climate change preparation and adaptation plans.

(2) The department of ecology shall serve as a central clearinghouse for relevant scientific and technical information about the impacts of climate change on Washington's ecology, economy, and society, as well as serve as a central convener for the development of vital programs and necessary policies to help the state adapt to a rapidly changing climate.

(3) The department of ecology shall consult and collaborate with the departments of fish and wildlife, agriculture, community, trade, and economic development, natural resources, and transportation in developing an integrated climate change response strategy and plans of action to prepare for and adapt to climate change impacts.

NEW SECTION. Sec. 11. (1) The integrated climate change response strategy should address the impact of and adaptation to climate change, as well as the regional capacity to undertake actions, existing ecosystem and resource management concerns, and health and economic risks. In addition, the departments of ecology, agriculture, community, trade, and economic development, fish and wildlife, natural resources, and transportation should include a range of scenarios for the purposes of planning in order to assess project vulnerability and, to the extent feasible, reduce expected risks and increase resiliency to the impacts of climate change.

(2)(a) By December 1, 2011, the department of ecology shall compile an initial climate change response strategy, including information and data from the departments of fish and wildlife, agriculture, community, trade, and economic development, natural resources, and transportation that: Summarizes the best known science on climate change impacts to Washington; assesses Washington's vulnerability to the identified climate change impacts; prioritizes solutions that can be implemented within and across state agencies; and identifies recommended funding mechanisms and technical and other essential resources for implementing solutions.

(b) The initial strategy must include:

(i) Efforts to identify priority planning areas for action, based on vulnerability and risk assessments;

(ii) Barriers challenging state and local governments to take action, such as laws, policies, regulations, rules, and procedures that require revision to adequately address adaptation to climate change;

(iii) Opportunities to integrate climate science and projected impacts into planning and decision making; and

(iv) Methods to increase public awareness of climate change, its projected impacts on the community, and to build support for meaningful adaptation policies and strategies.

NEW SECTION. Sec. 12. The departments of ecology, agriculture, community, trade, and economic development, fish and wildlife, natural resources, and transportation may consult with qualified nonpartisan experts from the scientific community as needed to assist with developing an integrated climate change response strategy. The qualified nonpartisan experts from the scientific community may assist the department of ecology on the following components:

(1) Identifying the timing and extent of impacts from climate change;

(2) Assessing the effects of climate variability and change in the context of multiple interacting stressors or impacts;

(3) Developing forecasting models;

(4) Determining the resilience of the environment, natural systems, communities, and organizations to deal with potential or actual impacts of climate change and the vulnerability to which a natural or social system is susceptible to sustaining damage from climate change impacts; and

(5) Identifying other issues, as determined by the department of ecology, necessary to develop policies and actions for the integrated climate change response strategy.

NEW SECTION. Sec. 13. State agencies shall strive to incorporate adaptation plans of action as priority activities when planning or designing agency policies and programs. Agencies shall consider: The integrated climate change response strategy when designing, planning, and funding infrastructure projects; and incorporating natural resource adaptation actions and alternative energy sources when designing and planning infrastructure projects.

NEW SECTION. Sec. 14. Sections 10 through 13 of this act constitute a new chapter in Title 43 RCW."

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

Representative Rolfes spoke in favor of the adoption of the amendment to the committee amendment.

Representatives Short, Ericksen and Orcutt spoke against the adoption of the amendment to the committee amendment.

Division was demanded and the demand was sustained.

The Speaker (Representative Morris presiding) divided the House. The result was 55 – YEAS; 41 – NAYS.

Amendment (729) to the committee amendment was adopted.

The question before the House was the adoption of the committee amendment.

Division was demanded and the demand was sustained.

The Speaker (Representative Morris presiding) divided the House. The result was 60 – YEAS; 37 – NAYS.

The committee amendment 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.

Representative Upthegrove spoke in favor of the passage of the bill.

Representative Short spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5560, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5560, as amended by the House, and the bill passed the House by the following vote: Yeas, 60; Nays, 37; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Blake, Campbell, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Priest, 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, Armstrong, Bailey, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Probst, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Wallace, Walsh and Warnick.

Excused: Representative Flannigan.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5560, as amended by the House, having received the necessary constitutional majority, was declared passed.

SENATE BILL NO. 5540, by Senators Pridemore, Hargrove, Marr, Shin and Haugen

Establishing high capacity transportation corridor areas.

The bill was read the second time.

Representative Cox moved the adoption of amendment (682):

On page 2, line 23, after "(1)" strike "A" and insert "Subject to subsection (2) of this section, a"

On page 2, after line 34, insert the following:

"(2) Before the governing body of an authorized transit agency, as provided in subsection (1) of this section, may establish a high capacity transportation corridor area, the governing body of the transit agency proposing to establish the corridor area must:

(a) Unanimously approve the establishment of the corridor area; and

(b) Obtain unanimous approval to establish the corridor area from the legislative authority of the county or counties in which the proposed corridor area is to be located."

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

Representatives Cox, Roach and Cox (again) spoke in favor of the adoption of the amendment.

Representatives Moeller and Moeller (again) spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (682) to Senate Bill No. 5540.

ROLL CALL

The Clerk called the roll on the adoption of amendment (682) to Senate Bill No. 5540 and the amendment was not adopted by the following vote: Yeas, 43; Nays, 54; Absent, 0; Excused, 1.

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

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

Excused: Representative Flannigan.

Amendment (682) was not adopted.

Representative Orcutt moved the adoption of amendment (619):

On page 2, line 25, after "one" strike "or more"

On page 3, line 3, after "area" strike "or areas"

Representatives Orcutt, Orcutt (again) and Ericksen spoke in favor of the adoption of the amendment.

Representatives Moeller and Moeller (again) spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (619) to Senate Bill No. 5540.

ROLL CALL

The Clerk called the roll on the adoption of amendment (619) to Senate Bill No. 5540 and the amendment was not adopted by the following vote: Yeas, 43; Nays, 54; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Armstrong, 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, Priest, Probst, Roach, Rodne, Ross, Schmick, Seaquist, Shea, Short, Smith, Taylor, Wallace, Walsh and Warnick.

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, 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.

Excused: Representative Flannigan.

Amendment (619) was not adopted.

Representative Shea moved the adoption of amendment (593):

On page 2, line 35, after "(2)" strike "A" and insert "Subject to subsection (3) of this section, a"

On page 3, after line 5, insert the following:

"(3) To authorize the imposition of a tax or taxes to support implementation of a high capacity transportation corridor area, a majority approval is required at an election in which the number of voters approving the tax or taxes is at least forty percent of the total number of voters voting within the proposed corridor area boundaries at the preceding general election."

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

Representatives Shea, Herrera and Orcutt spoke in favor of the adoption of the amendment.

Representative Liias spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (593) to Senate Bill No. 5540.

ROLL CALL

The Clerk called the roll on the adoption of amendment (593) to Senate Bill No. 5540 and the amendment was not adopted by the following vote: Yeas, 41; Nays, 56; Absent, 0; Excused, 1.

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

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, 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.

Excused: Representative Flannigan.

Amendment (593) was not adopted.

Representative Shea moved the adoption of amendment (594):

On page 2, line 35, after "(2)" strike "A" and insert "Subject to subsection (3) of this section, a"

On page 3, after line 5, insert the following:

"(3) A three-fifths majority of those voting within the boundaries of the high capacity transportation corridor area is required to authorize imposition of taxes to support implementation of a high capacity transportation corridor area."

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

Representatives Shea, Ericksen and Herrera spoke in favor of the adoption of the amendment.

Representatives Jacks and Moeller spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (594) to Senate Bill No. 5540.

ROLL CALL

The Clerk called the roll on the adoption of amendment (594) to Senate Bill No. 5540 and the amendment was not adopted by the following vote: Yeas, 43; Nays, 54; Absent, 0; Excused, 1.

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

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

Excused: Representative Flannigan.

Amendment (594) was not adopted.

Representative Herrera moved the adoption of amendment (595):

On page 2, line 35, after "(2)" strike "A" and insert "Subject to subsection (3) of this section, a"

On page 3, after line 5, insert the following:

"(3) Before a transit agency described in subsection (1) of this section may submit a measure to the voters within the high capacity transportation corridor area for voter approval of a high capacity transportation system or finance plan required under RCW 81.104.100, the transit agency shall:

(a) Conduct a public hearing, and provide opportunity for public comment, on the proposed boundaries of the high capacity transportation corridor area, and provide notice to all voters within the transit agency's boundaries at least ten days before the hearing;

(b) Cause an advisory vote to be held which asks all voters within the transit agency's boundaries to approve the proposed boundaries of the high capacity transportation corridor area; and

(c) Publish the results of the advisory vote described in subsection (b) of this subsection in a newspaper or newspapers of general circulation within the boundaries of the transit agency, identifying the approval rating of voters who reside within the proposed high capacity transportation corridor area and the approval

rating of voters who reside outside of the proposed high capacity transportation corridor area."

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

Representatives Herrera, Herrera (again), Roach, Orcutt and Angel spoke in favor of the adoption of the amendment.

Representatives Simpson and Simpson (again) spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (595) to Senate Bill No. 5540.

ROLL CALL

The Clerk called the roll on the adoption of amendment (595) to Senate Bill No. 5540 and the amendment was not adopted by the following vote: Yeas, 48; Nays, 49; Absent, 0; Excused, 1.

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

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Ericks, Finn, Goodman, Green, Haigh, Hudgins, Hunt, Jacks, Kagi, Kenney, Kessler, Kirby, Lias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, White, Williams, Wood and Mr. Speaker.

Excused: Representative Flannigan.

Amendment (595) was not adopted.

Representative Herrera moved the adoption of amendment (597):

On page 3, beginning on line 24, strike all of section 3
Renumber the remaining sections consecutively and correct any internal references accordingly.

Correct the title.

Representatives Herrera and Shea spoke in favor of the adoption of the amendment.

Representative Clibborn spoke against the adoption of the amendment.

POINT OF PARLIAMENTARY INQUIRY

Representative Orcutt: "Mr. Speaker, I have no problem with the gentle lady from the 18th District going ahead of me but I do see a couple of amendments before us that begin on page 2 and page 3 which I thought were suppose to come before something on page 3

beginning on line 24. I want to make sure that any vote on this doesn't nullify those amendments."

SPEAKER'S RULING

The Speaker (Representative Morris presiding): "Your point is well taken. With the twelve amendments, the order was incorrect. We are going to defer further action on amendment (597) to Senate Bill No. 5540 and take it up in the correct order. The correct order will be (616), (652), (620), (663), (596) the (597) and (662)."

Representative Orcutt moved the adoption of amendment (616):

On page 2, line 35, after "(2)" strike "A" and insert "Except as provided in subsection (3) of this section, a"

On page 3, after line 5, insert the following:

"(3) A high capacity transportation corridor area is not authorized to impose or seek voter approval of the taxes authorized in RCW 81.104.150, 81.104.160, and 81.104.170." Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 3, from the beginning on line 24, strike Sections 3, 4, 5, 6, and 7.

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

Correct the title.

Representatives Orcutt and Orcutt (again) spoke in favor of the adoption of the amendment.

Representative Clibborn spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (616) to Senate Bill No. 5540.

ROLL CALL

The Clerk called the roll on the adoption of amendment (616) to Senate Bill No. 5540 and the amendment was not adopted by the following vote: Yeas, 44; Nays, 53; Absent, 0; Excused, 1.

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

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

Excused: Representative Flannigan.

Amendment (616) was not adopted.

Representative Moeller moved the adoption of amendment (652):

On page 3, line 1, after "chapter" strike all material through "81.104.170" on line 5, and insert ", subject to the following restrictions:

(a) Any combined tax rates imposed under this chapter within the boundaries of the transit agency establishing a high capacity transportation corridor area or areas may not exceed the maximum rates authorized under RCW 81.104.150, 81.104.160, and 81.104.170;

(b) If a majority of the voters within the boundaries of a high capacity transportation corridor area approve a proposition imposing any high capacity transportation taxes, the governing body of the high capacity transportation corridor area may not seek subsequent voter approval of any additional high capacity transportation taxes, notwithstanding any remaining authorized taxing capacity; and

(c) The governing body of a high capacity transportation corridor area may not submit any authorizing proposition for voter-approved taxes prior to July 1, 2012"

Representatives Moeller and Roach spoke in favor of the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (652) to Senate Bill No. 5540.

ROLL CALL

The Clerk called the roll on the adoption of amendment (652) to Senate Bill No. 5540 and the amendment was adopted by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, 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.

Excused: Representative Flannigan.

Amendment (652) was adopted.

Representative Orcutt moved the adoption of amendment (620):

On page 3, line 1, after "However," strike all material through "81.104.170" on line 5 and insert "tax rates of a high capacity transportation corridor areas are subject to the following restrictions:

(a) A high capacity transportation corridor area may only seek voter approval of a sales and use tax pursuant to RCW 81.104.170 for purposes of providing high capacity transportation services; and

(b) In no event may a transit agency establishing a high capacity transportation corridor area or areas impose combined sales and use tax rates within the boundaries of a corridor area that exceed nine-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). For purposes of this subsection, "sales and use tax rates" means tax rates authorized under RCW 81.104.170 and 82.14.045"

On page 3, beginning on line 24, strike all of sections 3 and 4
Renummer the remaining sections consecutively and correct any internal references accordingly.

On page 4, line 24, after "corridor areas," insert "subject to section 2 of this act,"

On page 5, beginning on line 9, insert "(1)"

On page 5, line 11, after "benefit areas," strike "high capacity transportation areas,"

On page 5, after line 16, insert the following:

"(2) Subject to section 2 of this act, high capacity transportation corridor areas are authorized to pledge revenues from the sales and use tax authorized by RCW 81.104.170, to retire bonds issued solely for the purpose of providing high capacity transportation service."

Correct the title.

Representatives Orcutt and Herrera spoke in favor of the adoption of the amendment.

Representative Lias spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (620) to Senate Bill No. 5540.

ROLL CALL

The Clerk called the roll on the adoption of amendment (620) to Senate Bill No. 5540 and the amendment was not adopted by the following vote: Yeas, 44; Nays, 52; Absent, 0; Excused, 1.

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

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

Excused: Representative Flannigan.

Amendment (620) was not adopted.

Representative Herrera moved the adoption of amendment (663):

On page 3, beginning on line 14, strike all of subsection (4)
Renummer the remaining subsection consecutively and correct any internal references accordingly.

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

Representative Williams spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (663) to Senate Bill No. 5540.

ROLL CALL

The Clerk called the roll on the adoption of amendment (663) to Senate Bill No. 5540 and the amendment was not adopted by the following vote: Yeas, 44; Nays, 53; Absent, 0; Excused, 1.

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

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

Excused: Representative Flannigan.

Amendment (663) was not adopted.

Representative Shea moved the adoption of amendment (596):

On page 3, line 18, after "area" strike all materials through "entity." on line 23 and insert "must be dissolved when all obligations under any general obligation bonds issued by the high capacity transportation corridor area for voter approved projects have been discharged."

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

Representative Jacks spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (596) to Senate Bill No. 5540.

ROLL CALL

The Clerk called the roll on the adoption of amendment (596) to Senate Bill No. 5540 and the amendment was not adopted by the following vote: Yeas, 45; Nays, 52; Absent, 0; Excused, 1.

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

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

Excused: Representative Flannigan.

Amendment (596) was not adopted.

The House resumed consideration of amendment (597) to Senate Bill No. 5540 after it was noted that the amendment was taken up out of order.

Representatives Herrera and Orcutt spoke in favor of the adoption of the amendment.

Representative Clibborn spoke against the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (597) to Senate Bill No. 5540.

ROLL CALL

The Clerk called the roll on the adoption of amendment (597) to Senate Bill No. 5540 and the amendment was not adopted by the following vote: Yeas, 46; Nays, 51; Absent, 0; Excused, 1.

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

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

Excused: Representative Flannigan.

Amendment (597) was not adopted.

Representative Orcutt moved the adoption of amendment (662):

On page 6, line 5, after "of" strike "forty" and insert "twenty-five"

Representatives Orcutt and Moeller spoke in favor of the adoption of the amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (662) to Senate Bill No. 5540.

ROLL CALL

The Clerk called the roll on the adoption of amendment (662) to Senate Bill No. 5540 and the amendment was adopted by the following vote: Yeas, 93; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Lias, 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, Sells, Shea, Short, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Wood and Mr. Speaker.

Voting nay: Representatives Finn, Seaquist, Simpson and Williams.

Excused: Representative Flannigan.

Amendment (662) 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 Moeller spoke in favor of the passage of the bill.

Representatives Roach, Orcutt and Herrera spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Senate Bill No. 5540, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5540, as amended by the House, and the bill passed the House by the following vote: Yeas, 52; Nays, 45; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Blake, Campbell, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Kirby, Lias, Linville, Maxwell, McCoy, Moeller, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos,

Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, White, Williams, Wood and Mr. Speaker.

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

Excused: Representative Flannigan.

SENATE BILL NO. 5540, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

There being no objection, the Committee on Rules was relieved of HOUSE BILL NO. 2250, and the bill was placed on the second reading calendar.

There being no objection, the Committee on Finance was relieved of HOUSE BILL NO. 2351, and the bill was referred to the Committee on Rules.

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

There being no objection, the House adjourned until 10:00 a.m., April 17, 2009, the 96th Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk