

FIFTY FIFTH DAY

House Chamber, Olympia, Saturday, March 6, 2010

The House was called to order at 9:30 a.m. by the Speaker (Representative Morris presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Mary Richards and Hanna Dosser. The Speaker (Representative Morris presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Representative Al O'Brien, 1st District.

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

INTRODUCTIONS AND FIRST READING

HB 3211 by Representatives Liias and Miloscia

AN ACT Relating to public records; and adding a new section to chapter 42.56 RCW.

Referred to Committee on State Government & Tribal Affairs.

E2SSB 6409 by Senate Committee on Ways & Means (originally sponsored by Senators Kastama, Rockefeller, Shin and Kohl-Welles)

AN ACT Relating to creating the Washington opportunity pathways account; reenacting and amending RCW 67.70.240, 67.70.340, and 43.135.045; adding a new section to chapter 28B.76 RCW; and creating new sections.

Referred to Committee on Ways & Means.

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

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

MESSAGE FROM THE SENATE

March 2, 2010

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1966 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.84.040 and 1997 c 271 s 20 are each amended to read as follows:

The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white in color (with

or without a red tip), a totally or partially blind or hearing impaired pedestrian using a dog guide, ~~((or an otherwise physically disabled))~~ a person with physical disabilities using a service animal, or a person with a disability using a wheelchair or a power wheelchair as defined in RCW 46.04.415 shall take all necessary precautions to avoid injury to such pedestrian or wheelchair user. Any driver who fails to take such precaution shall be liable in damages for any injury caused such pedestrian or wheelchair user. It shall be unlawful for the operator of any vehicle to drive into or upon any crosswalk while there is on such crosswalk ~~((;))~~ such pedestrian ~~((;))~~ or wheelchair user crossing or attempting to cross the roadway, if such pedestrian or wheelchair user is using a white cane, ~~((or))~~ using a dog guide, ~~((or))~~ using a service animal, or using a wheelchair or a power wheelchair as defined in RCW 46.04.415. The failure of any such pedestrian or wheelchair user so to signal shall not deprive him or her of the right-of-way accorded him or her by other laws.

NEW SECTION. **Sec. 2.** This act takes effect August 1, 2010."

On page 1, line 2 of the title, after "precautions;" strike the remainder of the title and insert "amending RCW 70.84.040; and providing an effective date."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1966 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative McCoy 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. 1966, as amended by the Senate.

MOTIONS

On motion of Representative Santos, Representatives Dickerson, Hurst and Wood were excused. On motion of Representative Hinkle, Representatives Ericksen and Hope were excused.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1966, as amended by the Senate, and the bill passed the House by the following vote: Yeas: 93 Nays: 0 Absent: 0 Excused: 5

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Chopp, Clibborn, Cody, Condotta, Conway, Crouse,

Dammeier, Darneille, DeBolt, Driscoll, Dunshee, Eddy, Ericks, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, 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, and Williams

Excused: Representatives Dickerson, Ericksen, Hope, Hurst, and Wood

HOUSE BILL NO. 1966, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 3, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2402 with the following amendment:

On page 2, after line 35, insert the following:

"Sec. 2. RCW 84.36.020 and 1994 c 124 s 16 are each amended to read as follows:

The following real and personal property (~~shall be~~) is exempt from taxation:

(1) All lands, buildings, and personal property required for necessary administration and maintenance, used, or to the extent used, exclusively for public burying grounds or cemeteries without discrimination as to race, color, national origin or ancestry;

(2) All churches, personal property, and the ground, not exceeding five acres in area, upon which a church of any nonprofit recognized religious denomination is or (~~shall~~) will be built, together with a parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property. The area exempted (~~shall~~) in any case includes all ground covered by the church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property and the structures and ground necessary for street access, parking, light, and ventilation, but the area of unoccupied ground exempted in such cases, in connection with church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property, (~~shall~~) does not exceed the equivalent of one hundred twenty by one hundred twenty feet except where additional unoccupied land may be required to conform with state or local codes, zoning, or licensing requirements. The parsonage and convent need not be on land contiguous to the church property. Except as otherwise provided in this subsection, to be exempt the property must be wholly used for church purposes(~~:- PROVIDED, That~~). The loan or rental of property otherwise exempt under this (~~paragraph~~) subsection to a nonprofit organization, association, or corporation, or school for use for an eleemosynary activity (~~shall~~) or for use for activities related to a farmers market, does not nullify the exemption provided in this (~~paragraph~~) subsection if the rental income, if any, is reasonable and is devoted solely to the operation and maintenance of the property. However, activities related to a farmers market may not occur on the property more than fifty-three days each assessment year. For the purposes of this section, "farmers market" has the same meaning as "qualifying farmers market" as defined in RCW 66.24.170."

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

On page 1, line 2 of the title, after "market;" strike the remainder of the title and insert "amending RCW 84.36.037 and 84.36.020; creating a new section; and providing an expiration date."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2402 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative White 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. 2402, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2402, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Dammeier, Darneille, DeBolt, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, 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 and Mr. Speaker.

Excused: Representatives Dickerson, Hope, Hurst and Wood.

SUBSTITUTE HOUSE BILL NO. 2402, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2420 with the following amendment:

Strike everything after the enacting clause and insert the following:

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

(a) Washington's forest products industry plays a critical economic and environmental role in the state. The industry provides a wide range of services and goods both to Washingtonians and people around the world and is vital to the well-being and lifestyle of the people of the state of Washington; and

(b) It is in the best interest of the state to support and enhance the forest products industry.

(2) The legislature further finds that the state's forest practices are sustainably managed according to some of the most stringent riparian growing and harvest rules of any state in the nation or in the world, and that the state of Washington has received fifty-year assurances from the federal government that the state's forest practices satisfy the requirements of the federal endangered species act for aquatic species. As part of their environmental stewardship, forest landowners in Washington have repaired or removed nearly three thousand fish passage barriers, returned nearly twenty-five hundred miles of forest roads to their natural condition, and opened up nearly fifteen hundred miles of riparian salmonid habitat.

(3) The legislature further finds that Washington's forests naturally create habitat for fish and wildlife, clean water, and carbon storage; all environmental benefits that are lost when land is converted out of working forestry into another use. In recognition of forestry's benefits, the international panel on climate change has reported that a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks, while producing an annual sustained yield of timber, fiber, wood products, or energy from the forest, will generate the largest sustained carbon mitigation benefit.

(4) The legislature further finds that the forest products industry is a seventeen billion dollar industry, making it Washington's second largest manufacturing industry. The forest products industry alone provides nearly forty-five thousand direct jobs and one hundred sixty-two thousand indirect jobs, many located in rural areas.

(5) The legislature further finds that working forests help generate wealth through recreation and tourism, the retention and creation of green jobs, and through the production of wood products and energy, a finding supported by the United States secretary of agriculture.

Sec. 2. RCW 43.330.310 and 2008 c 14 s 9 are each amended to read as follows:

(1) The legislature establishes a comprehensive green economy jobs growth initiative based on the goal of, by 2020, increasing the number of green economy jobs to twenty-five thousand from the eight thousand four hundred green economy jobs the state had in 2004.

(2) The department, in consultation with the employment security department, the state workforce training and education coordinating board, the state board ~~((of for))~~ for community and technical colleges, and the higher education coordinating board, shall develop a defined list of terms, consistent with current workforce and economic development terms, associated with green economy industries and jobs.

(3)(a) The employment security department, in consultation with the department, the state workforce training and education coordinating board, the state board for community and technical colleges, the higher education coordinating board, Washington State University small business development center, and the Washington State University extension energy program, shall conduct labor market research to analyze the current labor market and projected job growth in the green economy, the current and projected recruitment and skill requirement of green economy industry employers, the wage and benefits ranges of jobs within green economy industries, and the education and training requirements of entry-level and incumbent workers in those industries.

(i) The employment security department shall conduct an analysis of occupations in the forest products industry to: (A) Determine key growth factors and employment projections in the industry; and (B) define the education and skill standards required for current and emerging green occupations in the industry.

(ii) The term "forest products industry" must be given a broad interpretation when implementing (a)(i) of this subsection and includes, but is not limited to, businesses that grow, manage, harvest, transport, and process forest, wood, and paper products.

(b) The University of Washington business and economic development center shall: Analyze the current opportunities for and participation in the green economy by minority and women-owned business enterprises in Washington; identify existing barriers to their successful participation in the green economy; and develop strategies with specific policy recommendations to improve their successful participation in the green economy. The research may be informed by the research of the Puget Sound regional council prosperity partnership, as well as other entities. The University of Washington business and economic development center shall report to the appropriate committees of the house of representatives and the senate on their research, analysis, and recommendations by December 1, 2008.

(4) Based on the findings from subsection (3) of this section, the employment security department, in consultation with the department and taking into account the requirements and goals of chapter 14, Laws of 2008 and other state clean energy and energy efficiency policies, shall propose which industries will be considered high-demand green industries, based on current and projected job creation and their strategic importance to the development of the state's green economy. The employment security department and the department shall take into account which jobs within green economy industries will be considered high-wage occupations and occupations that are part of career pathways to the same, based on family-sustaining wage and benefits ranges. These designations, and the results of the employment security department's broader labor market research, shall inform the planning and strategic direction of the department, the state workforce training and education coordinating board, the state board for community and technical colleges, and the higher education coordinating board.

(5) The department shall identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270.

(6) The department, consistent with the priorities established by the state economic development commission, shall:

(a) Develop targeting criteria for existing investments, and make recommendations for new or expanded financial incentives and comprehensive strategies, to recruit, retain, and expand green economy industries and small businesses; and

(b) Make recommendations for new or expanded financial incentives and comprehensive strategies to stimulate research and development of green technology and innovation, including designating innovation partnership zones linked to the green economy.

(7) For the purposes of this section, "target populations" means (a) entry-level or incumbent workers in high-demand green industries who are in, or are preparing for, high-wage occupations; (b) dislocated workers in declining industries who may be retrained for high-wage occupations in high-demand green industries; (c) dislocated agriculture, timber, or energy sector workers who may be retrained for high-wage occupations in high-demand green industries; (d) eligible veterans or national guard members; (e) disadvantaged populations; or (f) anyone eligible to participate in the state opportunity grant program under RCW 28B.50.271.

(8) The legislature directs the state workforce training and education coordinating board to create and pilot green industry skill panels. These panels shall consist of business representatives from: Green industry sectors ~~((related to clean energy))~~, including but not limited to forest product companies, companies engaged in energy efficiency and renewable energy production, companies engaged in pollution prevention, reduction, and mitigation, and companies engaged in green building work and green transportation; labor unions representing workers in those industries or labor affiliates administering state-approved, joint apprenticeship programs or labor-management partnership programs that train workers for these

industries(;;); state and local veterans agencies(;;); employer associations(;;); educational institutions(;;); and local workforce development councils within the region that the panels propose to operate(;;); and other key stakeholders as determined by the applicant. Any of these stakeholder organizations are eligible to receive grants under this section and serve as the intermediary that convenes and leads the panel. Panel applicants must provide labor market and industry analysis that demonstrates high demand, or demand of strategic importance to the development of the state's clean energy economy as identified in this section, for high-wage occupations, or occupations that are part of career pathways to the same, within the relevant industry sector. The panel shall:

(a) Conduct labor market and industry analyses, in consultation with the employment security department, and drawing on the findings of its research when available;

(b) Plan strategies to meet the recruitment and training needs of the industry and small businesses; and

(c) Leverage and align other public and private funding sources.

(9) The green industries jobs training account is created in the state treasury. Moneys from the account must be utilized to supplement the state opportunity grant program established under RCW 28B.50.271. All receipts from appropriations directed to the account must be deposited into the account. Expenditures from the account may be used only for the activities identified in this subsection. The state board for community and technical colleges, in consultation with the state workforce training and education coordinating board, informed by the research of the employment security department and the strategies developed in this section, may authorize expenditures from the account. The state board for community and technical colleges must distribute grants from the account on a competitive basis.

(a)(i) Allowable uses of these grant funds, which should be used when other public or private funds are insufficient or unavailable, may include:

(A) Curriculum development;

(B) Transitional jobs strategies for dislocated workers in declining industries who may be retrained for high-wage occupations in green industries;

(C) Workforce education to target populations; and

(D) Adult basic and remedial education as necessary linked to occupation skills training.

(ii) Allowable uses of these grant funds do not include student assistance and support services available through the state opportunity grant program under RCW 28B.50.271.

(b) Applicants eligible to receive these grants may be any organization or a partnership of organizations that has demonstrated expertise in:

(i) Implementing effective education and training programs that meet industry demand; and

(ii) Recruiting and supporting, to successful completion of those training programs carried out under these grants, the target populations of workers.

(c) In awarding grants from the green industries jobs training account, the state board for community and technical colleges shall give priority to applicants that demonstrate the ability to:

(i) Use labor market and industry analysis developed by the employment security department and green industry skill panels in the design and delivery of the relevant education and training program, and otherwise utilize strategies developed by green industry ~~((skills~~ skill panels;

(ii) Leverage and align existing public programs and resources and private resources toward the goal of recruiting, supporting, educating, and training target populations of workers;

(iii) Work collaboratively with other relevant stakeholders in the regional economy;

(iv) Link adult basic and remedial education, where necessary, with occupation skills training;

(v) Involve employers and, where applicable, labor unions in the determination of relevant skills and competencies and, where relevant, the validation of career pathways; and

(vi) Ensure that supportive services, where necessary, are integrated with education and training and are delivered by organizations with direct access to and experience with the targeted population of workers.

Sec. 3. RCW 43.330.375 and 2009 c 536 s 4 are each amended to read as follows:

(1) The department and the workforce board ~~((in consultation with the leadership team.))~~ must:

(a) Coordinate efforts across the state to ensure that federal training and education funds are captured and deployed in a focused and effective manner in order to support green economy projects and accomplish the goals of the evergreen jobs initiative;

(b) Accelerate and coordinate efforts by state and local organizations to identify, apply for, and secure all sources of funds, particularly those created by the 2009 American recovery and reinvestment act, and to ensure that distributions of funding to local organizations are allocated in a manner that is time-efficient and user-friendly for the local organizations. Local organizations eligible to receive support include but are not limited to:

(i) Associate development organizations;

(ii) Workforce development councils;

(iii) Public utility districts; and

(iv) Community action agencies;

(c) Support green economy projects at both the state and local level by developing a process and a framework to provide, at a minimum:

(i) Administrative and technical assistance;

(ii) Assistance with and expediting of permit processes; and

(iii) Priority consideration of opportunities leading to exportable green economy goods and services, including renewable energy technology;

(d) Coordinate local and state implementation of projects using federal funds to ensure implementation is time-efficient and user-friendly for local organizations;

(e) Emphasize through both support and outreach efforts, projects that:

(i) Have a strong and lasting economic or environmental impact;

(ii) Lead to a domestically or internationally exportable good or service, including renewable energy technology;

(iii) Create training programs leading to a credential, certificate, or degree in a green economy field;

(iv) Strengthen the state's competitiveness in a particular sector or cluster of the green economy;

(v) Create employment opportunities for veterans, members of the national guard, and low-income and disadvantaged populations;

(vi) Comply with prevailing wage provisions of chapter 39.12 RCW;

(vii) Ensure at least fifteen percent of labor hours are performed by apprentices;

(f) Identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270;

(g) Identify barriers to the growth of green jobs in traditional industries such as the forest products industry;

(h) Identify statewide performance metrics for projects receiving agency assistance. Such metrics may include:

(i) The number of new green jobs created each year, their wage levels, and, to the extent determinable, the percentage of new green jobs filled by veterans, members of the national guard, and low-income and disadvantaged populations;

(ii) The total amount of new federal funding secured, the respective amounts allocated to the state and local levels, and the timeliness of deployment of new funding by state agencies to the local level;

(iii) The timeliness of state deployment of funds and support to local organizations; and

(iv) If available, the completion rates, time to completion, and training-related placement rates for green economy postsecondary training programs;

((~~(h)~~)) (i) Identify strategies to allocate existing and new funding streams for green economy workforce training programs and education to emphasize those leading to a credential, certificate, or degree in a green economy field;

((~~(h)~~)) (j) Identify and implement strategies to allocate existing and new funding streams for workforce development councils and associate development organizations to increase their effectiveness and efficiency and increase local capacity to respond rapidly and comprehensively to opportunities to attract green jobs to local communities;

((~~(h)~~)) (k) Develop targeting criteria for existing investments that are consistent with the economic development commission's economic development strategy and the goals of this section and RCW 28C.18.170, 28B.50.281, and 49.04.200; and

((~~(h)~~)) (l) Make and support outreach efforts so that residents of Washington, particularly members of target populations, become aware of educational and employment opportunities identified and funded through the evergreen jobs act.

(2) The department and the workforce board(~~(-in consultation with the leadership team,))~~) must provide semiannual performance reports to the governor and appropriate committees of the legislature on:

(a) Actual statewide performance based on the performance measures identified in subsection (1)((~~(g)~~)) (h) of this section;

(b) How the state is emphasizing and supporting projects that lead to a domestically or internationally exportable good or service, including renewable energy technology;

(c) A list of projects supported, created, or funded in furtherance of the goals of the evergreen jobs initiative and the actions taken by state and local organizations, including the effectiveness of state agency support provided to local organizations as directed in subsection (1)(b) and (c) of this section;

(d) Recommendations for new or expanded financial incentives and comprehensive strategies to:

(i) Recruit, retain, and expand green economy industries and small businesses; and

(ii) Stimulate research and development of green technology and innovation, which may include designating innovation partnership zones linked to the green economy;

(e) Any information that associate development organizations and workforce development councils choose to provide to appropriate legislative committees regarding the effectiveness, timeliness, and coordination of support provided by state agencies under this section and RCW 28C.18.170, 28B.50.281, and 49.04.200; and

(f) Any recommended statutory changes necessary to increase the effectiveness of the evergreen jobs initiative and state responsiveness to local agencies and organizations.

(3) The definitions, designations, and results of the employment security department's broader labor market research under RCW 43.330.010 shall inform the planning and strategic direction of the department, the state workforce training and education coordinating board, the state board for community and technical colleges, and the higher education coordinating board."

On page 1, line 2 of the title, after "base;" strike the remainder of the title and insert "amending RCW 43.330.310 and 43.330.375; and creating a new section."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2420 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Kenney 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 Substitute House Bill No. 2420, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2420, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Dammeier, Darneille, DeBolt, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Lias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, 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 and Mr. Speaker.

Excused: Representatives Dickerson, Hope, Hurst and Wood.

SUBSTITUTE HOUSE BILL NO. 2420, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2464 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.61.212 and 2007 c 83 s 1 are each amended to read as follows:

(1) The driver of any motor vehicle, upon approaching an emergency zone, which is defined as the adjacent lanes of the roadway two hundred feet before and after (a) a stationary authorized emergency vehicle that is making use of audible and/or visual signals meeting the requirements of RCW 46.37.190, (b) a tow truck that is making use of visual red lights meeting the requirements of RCW 46.37.196, (c) other vehicles providing roadside assistance that are making use of warning lights with three hundred sixty degree visibility, or (d) a police vehicle properly and lawfully displaying a flashing, blinking, or alternating emergency light or lights, shall:

~~((4))~~ (i) On a highway having four or more lanes, at least two of which are intended for traffic proceeding in the same direction as the approaching vehicle, proceed with caution and, if reasonable, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change or moving away from the lane or shoulder occupied by the stationary authorized emergency vehicle or police vehicle;

~~((2))~~ (ii) On a highway having less than four lanes, proceed with caution, reduce the speed of the vehicle, and, if reasonable, with due regard for safety and traffic conditions, and under the rules of this chapter, yield the right-of-way by passing to the left at a safe distance and simultaneously yield the right-of-way to all vehicles traveling in the proper direction upon the highway; or

~~((3))~~ (iii) If changing lanes or moving away would be unreasonable or unsafe, proceed with due caution and reduce the speed of the vehicle.

(2) A person may not drive a vehicle in an emergency zone at a speed greater than the posted speed limit.

(3) A person found to be in violation of this section, or any infraction relating to speed restrictions in an emergency zone, must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. This penalty may not be waived, reduced, or suspended.

(4) A person who drives a vehicle in an emergency zone in such a manner as to endanger or be likely to endanger any emergency zone worker or property is guilty of reckless endangerment of emergency zone workers. A violation of this subsection is a gross misdemeanor punishable under chapter 9A.20 RCW.

(5) The department shall suspend for sixty days the driver's license, permit to drive, or nonresident driving privilege of a person convicted of reckless endangerment of emergency zone workers.

NEW SECTION. Sec. 2. (1) Within existing resources, the state patrol and the department of transportation shall conduct education and outreach efforts regarding emergency zones, including drivers' obligations in emergency zones and the penalties for violating these obligations, for at least ninety days after the effective date of this act. The education and outreach efforts must include the use of department of transportation variable message signs.

(2) This section expires June 30, 2011.

Sec. 3. RCW 46.63.020 and 2009 c 485 s 6 are each amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 relating to the nonpayment of taxes and fees by failure to register a vehicle and falsifying residency when registering a motor vehicle;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

(9) RCW 46.16.381(2) relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

(13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(14) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

(15) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license, temporary restricted driver's license, or ignition interlock driver's license;

(16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(17) RCW 46.20.750 relating to circumventing an ignition interlock device;

(18) RCW 46.25.170 relating to commercial driver's licenses;

(19) Chapter 46.29 RCW relating to financial responsibility;

(20) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(21) RCW 46.37.435 relating to wrongful installation of sunscreening material;

(22) RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;

(23) RCW 46.37.671 through 46.37.675 relating to signal preemption devices;

(24) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

(25) RCW 46.48.175 relating to the transportation of dangerous articles;

(26) RCW 46.52.010 relating to duty on striking an unattended car or other property;

(27) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(28) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;

(29) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

(30) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

(31) RCW 46.55.035 relating to prohibited practices by tow truck operators;

(32) RCW 46.55.300 relating to vehicle immobilization;

(33) RCW 46.61.015 relating to obedience to police officers, flaggers, or firefighters;

(34) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

(35) RCW 46.61.022 relating to failure to stop and give identification to an officer;

(36) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

(37) RCW 46.61.212(4) relating to reckless endangerment of emergency zone workers;

(38) RCW 46.61.500 relating to reckless driving;

~~((38))~~ (39) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

~~((39))~~ (40) RCW 46.61.503 relating to a person under age twenty- one driving a motor vehicle after consuming alcohol;

~~((40))~~ (41) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

~~((41))~~ (42) RCW 46.61.522 relating to vehicular assault;
~~((42))~~ (43) RCW 46.61.5249 relating to first degree negligent driving;
~~((43))~~ (44) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;
~~((44))~~ (45) RCW 46.61.530 relating to racing of vehicles on highways;
~~((45))~~ (46) RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;
~~((46))~~ (47) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
~~((47))~~ (48) RCW 46.61.740 relating to theft of motor vehicle fuel;
~~((48))~~ (49) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;
~~((49))~~ (50) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;
~~((50))~~ (51) Chapter 46.65 RCW relating to habitual traffic offenders;
~~((51))~~ (52) RCW 46.68.010 relating to false statements made to obtain a refund;
~~((52))~~ (53) RCW 46.35.030 relating to recording device information;
~~((53))~~ (54) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;
~~((54))~~ (55) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;
~~((55))~~ (56) RCW 46.72A.060 relating to limousine carrier insurance;
~~((56))~~ (57) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;
~~((57))~~ (58) RCW 46.72A.080 relating to false advertising by a limousine carrier;
~~((58))~~ (59) Chapter 46.80 RCW relating to motor vehicle wreckers;
~~((59))~~ (60) Chapter 46.82 RCW relating to driver's training schools;
~~((60))~~ (61) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;
~~((61))~~ (62) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

Sec. 4. RCW 46.20.342 and 2008 c 282 s 4 are each amended to read as follows:

(1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be an habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a

person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

(i) A conviction of a felony in the commission of which a motor vehicle was used;

(ii) A previous conviction under this section;

(iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

(iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license;

(v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;

(vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;

(viii) A conviction of RCW 46.61.212(4), relating to reckless endangerment of emergency zone workers;

~~((ix))~~ (ix) A conviction of RCW 46.61.500, relating to reckless driving;

~~((ix))~~ (x) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

~~((x))~~ (xi) A conviction of RCW 46.61.520, relating to vehicular homicide;

~~((xi))~~ (xii) A conviction of RCW 46.61.522, relating to vehicular assault;

~~((xii))~~ (xiii) A conviction of RCW 46.61.527(4), relating to reckless endangerment of roadway workers;

~~((xiii))~~ (xiv) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

~~((xiv))~~ (xv) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

~~((xv))~~ (xvi) A conviction of RCW 46.61.740, relating to theft of motor vehicle fuel;

~~((xvi))~~ (xvii) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((xvii))~~ (xviii) An administrative action taken by the department under chapter 46.20 RCW; or

~~((xviii))~~ (xix) A conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included in this subsection.

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the

person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, or (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or any combination of (c)(i) through (vii) of this subsection, is guilty of driving while license suspended or revoked in the third degree, a misdemeanor.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1)(a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.

Sec. 5. RCW 46.63.110 and 2009 c 479 s 39 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter it is immediately payable. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more

than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privilege until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the department has been notified that the court has entered into a new time payment or community restitution agreement with the person.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court shall notify the department of the delinquency. The department shall suspend the person's driver's license or driving privilege until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of two dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

NEW SECTION. Sec. 6. This act takes effect January 1, 2011."

On page 1, line 2 of the title, after "zones;" strike the remainder of the title and insert "amending RCW 46.61.212, 46.63.020, 46.20.342, and 46.63.110; creating a new section; prescribing penalties; providing an effective date; and providing an expiration date."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2464 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representatives Liias and Roach 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. 2464, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2464, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Dammeier, Darneille, DeBolt, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, 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 and Mr. Speaker.

Excused: Representatives Dickerson, Hope, Hurst and Wood.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2464, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2503 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.30.205 and 2003 c 334 s 104 are each amended to read as follows:

(1) The board shall consist of six members:

(a) The governor or the governor's designee((-);

(b) The superintendent of public instruction((-);

(c) The commissioner ((of public lands, the dean of the college of forest resources of the University of Washington, the dean of the college of agriculture of Washington State University);

(d) The director of the University of Washington school of forest resources;

(e) The dean of the Washington State University college of agricultural, human, and natural resource sciences; and

(f) A representative of those counties that contain state forest lands acquired or transferred under RCW 79.22.010, 79.22.040, and 79.22.020.

(2)(a) The county representative on the board shall be selected by the legislative authorities of those counties that contain state forest lands acquired or transferred under RCW 79.22.010, 79.22.040, and 79.22.020. In the selection of the county representative, each participating county shall have one vote. The Washington state association of counties shall ((conduct)) convene a meeting for the purpose of making the selection and shall notify the board of the selection.

(b) The county representative ((shall)) must be a duly elected member of a county legislative authority who shall serve a term of four years unless the representative should leave office for any reason. The initial term shall begin on July 1, 1986."

On page 1, line 2 of the title, after "members;" strike the remainder of the title and insert "and amending RCW 43.30.205."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2503 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representative Blake 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. 2503, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2503, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Dammeier, Darneille, DeBolt, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, 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 and Mr. Speaker.

Excused: Representatives Dickerson, Hope, Hurst and Wood.

SUBSTITUTE HOUSE BILL NO. 2503, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2538 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the intent of the legislature to encourage high-density, compact, in-fill development and redevelopment within existing urban areas in order to further existing goals of chapter 36.70A RCW, the growth management act, to promote the use of public transit and encourage further investment in transit systems, and to contribute to the reduction of greenhouse gas emissions by: (1) Encouraging local governments to adopt plans and regulations that authorize compact, high-density urban development as defined in section 2 of this act; (2) providing for the funding and preparation of environmental impact statements that comprehensively examine the impacts of such development at the time that the plans and regulations are adopted; and (3) encouraging development that is consistent with such plans and regulations by precluding appeals under chapter 43.21C RCW.

NEW SECTION. Sec. 2. A new section is added to chapter 43.21C RCW to read as follows:

(1) Cities with a population greater than five thousand, in accordance with their existing comprehensive planning and

development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within specified subareas of the cities, that are either:

(a) Areas designated as mixed-use or urban centers in a land use or transportation plan adopted by a regional transportation planning organization; or

(b) Areas within one-half mile of a major transit stop that are zoned to have an average minimum density of fifteen dwelling units or more per gross acre.

(2) Cities located on the east side of the Cascade mountains and located in a county with a population of two hundred thirty thousand or less, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within the mixed-use or urban centers. The optional elements of their comprehensive plans and optional development regulations must enhance pedestrian, bicycle, transit, or other nonvehicular transportation methods.

(3) A major transit stop is defined as:

(a) A stop on a high capacity transportation service funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems, including transitways;

(d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or

(e) Stops for a bus or other transit mode providing fixed route service at intervals of at least thirty minutes during the peak hours of operation.

(4)(a) A city that elects to adopt such an optional comprehensive plan element and optional development regulations shall prepare a nonproject environmental impact statement, pursuant to RCW 43.21C.030, assessing and disclosing the probable significant adverse environmental impacts of the optional comprehensive plan element and development regulations and of future development that is consistent with the plan and regulations.

(b) At least one community meeting must be held on the proposed subarea plan before the scoping notice for such a nonproject environmental impact statement is issued. Notice of scoping for such a nonproject environmental impact statement and notice of the community meeting required by this section must be mailed to all property owners of record within the subarea to be studied, to all property owners within one hundred fifty feet of the boundaries of such a subarea, to all affected federally recognized tribal governments whose ceded area is within one-half mile of the boundaries of the subarea, and to agencies with jurisdiction over the future development anticipated within the subarea.

(c) In cities with over five hundred thousand residents, notice of scoping for such a nonproject environmental impact statement and notice of the community meeting required by this section must be mailed to all small businesses as defined in RCW 19.85.020, and to all community preservation and development authorities established under chapter 43.167 RCW, located within the subarea to be studied or within one hundred fifty feet of the boundaries of such subarea. The process for community involvement must have the goal of fair treatment and meaningful involvement of all people with respect to the development and implementation of the subarea planning process.

(d) The notice of the community meeting must include general illustrations and descriptions of buildings generally representative of the maximum building envelope that will be allowed under the proposed plan and indicate that future appeals of proposed developments that are consistent with the plan will be limited. Notice of the community meeting must include signs located on major travel routes in the subarea. If the building envelope increases during the

process, another notice complying with the requirements of this section must be issued before the next public involvement opportunity.

(e) Any person that has standing to appeal the adoption of this subarea plan or the implementing regulations under RCW 36.70A.280 has standing to bring an appeal of the nonproject environmental impact statement required by this subsection.

(f) Cities with over five hundred thousand residents shall prepare a study that accompanies or is appended to the nonproject environmental impact statement, but must not be part of that statement, that analyzes the extent to which the proposed subarea plan may result in the displacement or fragmentation of existing businesses, existing residents, including people living with poverty, families with children, and intergenerational households, or cultural groups within the proposed subarea plan. The city shall also discuss the results of the analysis at the community meeting.

(g) As an incentive for development authorized under this section, a city shall consider establishing a transfer of development rights program in consultation with the county where the city is located, that conserves county-designated agricultural and forest land of long-term commercial significance. If the city decides not to establish a transfer of development rights program, the city must state in the record the reasons for not adopting the program. The city's decision not to establish a transfer of development rights program is not subject to appeal. Nothing in this subsection (4)(g) may be used as a basis to challenge the optional comprehensive plan or subarea plan policies authorized under this section.

(5)(a) Until July 1, 2018, a proposed development that is consistent with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) or (2) of this section and that is environmentally reviewed under subsection (4) of this section may not be challenged in administrative or judicial appeals for noncompliance with this chapter as long as a complete application for such a development that vests the application or would later lead to vested status under city or state law is submitted to the city within a time frame established by the city, but not to exceed ten years from the date of issuance of the final environmental impact statement.

(b) After July 1, 2018, the immunity from appeals under this chapter of any application that vests or will vest under this subsection or the ability to vest under this subsection is still valid, provided that the final subarea environmental impact statement is issued by July 1, 2018. After July 1, 2018, a city may continue to collect reimbursement fees under subsection (6) of this section for the proportionate share of a subarea environmental impact statement issued prior to July 1, 2018.

(6) It is recognized that a city that prepares a nonproject environmental impact statement under subsection (4) of this section must endure a substantial financial burden. A city may recover its reasonable expenses of preparation of a nonproject environmental impact statement prepared under subsection (4) of this section through access to financial assistance under RCW 36.70A.490 or funding from private sources. In addition, a city is authorized to recover a portion of its reasonable expenses of preparation of such a nonproject environmental impact statement by the assessment of reasonable and proportionate fees upon subsequent development that is consistent with the plan and development regulations adopted under subsection (5) of this section, as long as the development makes use of and benefits, as described in subsection (5) of this section, from the nonproject environmental impact statement prepared by the city. Any assessment fees collected from subsequent development may be used to reimburse funding received from private sources. In order to collect such fees, the city must enact an ordinance that sets forth objective standards for determining how the fees to be imposed upon each development will be proportionate to the impacts of each development and to the benefits accruing to each development from

the nonproject environmental impact statement. Any disagreement about the reasonableness or amount of the fees imposed upon a development may not be the basis for delay in issuance of a project permit for that development. The fee assessed by the city may be paid with the written stipulation "paid under protest" and if the city provides for an administrative appeal of its decision on the project for which the fees are imposed, any dispute about the amount of the fees must be resolved in the same administrative appeal process.

(7) If a proposed development is inconsistent with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) of this section, the city shall require additional environmental review in accordance with this chapter.

Sec. 3. RCW 82.02.020 and 2009 c 535 s 1103 are each amended to read as follows:

Except only as expressly provided in chapters 67.28, 81.104, and 82.14 RCW, the state preempts the field of imposing retail sales and use taxes and taxes upon parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county, town, or other municipal subdivision shall have the right to impose taxes of that nature. Except as provided in RCW 64.34.440 and 82.02.050 through 82.02.090, no county, city, town, or other municipal corporation shall impose any tax, fee, or charge, either direct or indirect, on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance thereto, or on the development, subdivision, classification, or reclassification of land. However, this section does not preclude dedications of land or easements within the proposed development or plat which the county, city, town, or other municipal corporation can demonstrate are reasonably necessary as a direct result of the proposed development or plat to which the dedication of land or easement is to apply.

This section does not prohibit voluntary agreements with counties, cities, towns, or other municipal corporations that allow a payment in lieu of a dedication of land or to mitigate a direct impact that has been identified as a consequence of a proposed development, subdivision, or plat. A local government shall not use such voluntary agreements for local off-site transportation improvements within the geographic boundaries of the area or areas covered by an adopted transportation program authorized by chapter 39.92 RCW. Any such voluntary agreement is subject to the following provisions:

(1) The payment shall be held in a reserve account and may only be expended to fund a capital improvement agreed upon by the parties to mitigate the identified, direct impact;

(2) The payment shall be expended in all cases within five years of collection; and

(3) Any payment not so expended shall be refunded with interest to be calculated from the original date the deposit was received by the county and at the same rate applied to tax refunds pursuant to RCW 84.69.100; however, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest.

No county, city, town, or other municipal corporation shall require any payment as part of such a voluntary agreement which the county, city, town, or other municipal corporation cannot establish is reasonably necessary as a direct result of the proposed development or plat.

Nothing in this section prohibits cities, towns, counties, or other municipal corporations from collecting reasonable fees from an applicant for a permit or other governmental approval to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW, including reasonable fees that are consistent with section 2(6) of this act.

This section does not limit the existing authority of any county, city, town, or other municipal corporation to impose special

assessments on property specifically benefitted thereby in the manner prescribed by law.

Nothing in this section prohibits counties, cities, or towns from imposing or permits counties, cities, or towns to impose water, sewer, natural gas, drainage utility, and drainage system charges. However, no such charge shall exceed the proportionate share of such utility or system's capital costs which the county, city, or town can demonstrate are attributable to the property being charged. Furthermore, these provisions may not be interpreted to expand or contract any existing authority of counties, cities, or towns to impose such charges.

Nothing in this section prohibits a transportation benefit district from imposing fees or charges authorized in RCW 36.73.120 nor prohibits the legislative authority of a county, city, or town from approving the imposition of such fees within a transportation benefit district.

Nothing in this section prohibits counties, cities, or towns from imposing transportation impact fees authorized pursuant to chapter 39.92 RCW.

Nothing in this section prohibits counties, cities, or towns from requiring property owners to provide relocation assistance to tenants under RCW 59.18.440 and 59.18.450.

Nothing in this section limits the authority of counties, cities, or towns to implement programs consistent with RCW 36.70A.540, nor to enforce agreements made pursuant to such programs.

This section does not apply to special purpose districts formed and acting pursuant to Title 54, 57, or 87 RCW, nor is the authority conferred by these titles affected."

On page 1, line 1 of the title, after "development;" strike the remainder of the title and insert "amending RCW 82.02.020; adding a new section to chapter 43.21C RCW; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2538 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Upthegrove and Short 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. 2538, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2538, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 91; Nays, 3; Absent, 0; Excused, 4.

Voting yea: Representatives Alexander, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Dammeier, Darneille, DeBolt, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris,

Nealey, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams and Mr. Speaker.

Voting nay: Representatives Anderson, Angel and Rodne.

Excused: Representatives Dickerson, Hope, Hurst and Wood.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2538, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2657 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 25.15.005 and 2008 c 198 s 4 are each amended to read as follows:

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

(1) "Certificate of formation" means the certificate referred to in RCW 25.15.070, and the certificate as amended.

(2) "Event of dissociation" means an event that causes a person to cease to be a member as provided in RCW 25.15.130.

(3) "Foreign limited liability company" means an entity that is formed under:

(a) The limited liability company laws of any state other than this state; or

(b) The laws of any foreign country that is: (i) An unincorporated association, (ii) formed under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity, and (iii) not required, in order to transact business or conduct affairs in this state, to be registered or qualified under Title 23B or 24 RCW, or any other chapter of the Revised Code of Washington authorizing the formation of a domestic entity and the registration or qualification in this state of similar entities formed under the laws of a jurisdiction other than this state.

(4) "Limited liability company" and "domestic limited liability company" means a limited liability company having one or more members that is organized and existing under this chapter.

(5) "Limited liability company agreement" means any written agreement of the members, or any written statement of the sole member, as to the affairs of a limited liability company and the conduct of its business which is binding upon the member or members.

(6) "Limited liability company interest" means a member's share of the profits and losses of a limited liability company and a member's right to receive distributions of the limited liability company's assets.

(7) "Manager" or "managers" means, with respect to a limited liability company that has set forth in its certificate of formation that it is to be managed by managers, the person, or persons designated in accordance with RCW 25.15.150(2).

(8) "Member" means a person who has been admitted to a limited liability company as a member as provided in RCW 25.15.115 and who has not been dissociated from the limited liability company.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or

instrumentality, or a separate legal entity comprised of two or more of these entities, or any other legal or commercial entity.

(10) "Professional limited liability company" means a limited liability company which is organized for the purpose of rendering professional service and whose certificate of formation sets forth that it is a professional limited liability company subject to RCW 25.15.045.

(11) "Professional service" means the same as defined under RCW 18.100.030.

(12) "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.

(13) "State" means the District of Columbia or the Commonwealth of Puerto Rico or any state, territory, possession, or other jurisdiction of the United States other than the state of Washington.

Sec. 2. RCW 25.15.070 and 1994 c 211 s 201 are each amended to read as follows:

(1) In order to form a limited liability company, one or more persons must execute a certificate of formation. The certificate of formation shall be filed in the office of the secretary of state and set forth:

- (a) The name of the limited liability company;
- (b) The address of the registered office and the name and address of the registered agent for service of process required to be maintained by RCW 25.15.020;
- (c) The address of the principal place of business of the limited liability company;
- (d) If the limited liability company is to have a specific date of dissolution, the latest date on which the limited liability company is to dissolve;
- (e) If management of the limited liability company is vested in a manager or managers, a statement to that effect;
- (f) Any other matters the members decide to include therein; and
- (g) The name and address of each person executing the certificate of formation.

(2) Effect of filing:

(a) Unless a delayed effective date is specified, a limited liability company is formed when its certificate of formation is filed by the secretary of state. A delayed effective date for a certificate of formation may be no later than the ninetieth day after the date it is filed.

(b) The secretary of state's filing of the certificate of formation is conclusive proof that the persons executing the certificate satisfied all conditions precedent to the formation (~~except in a proceeding by the state to cancel the certificate~~).

(c) A limited liability company formed under this chapter shall be a separate legal entity (~~(, the existence of which as a separate legal entity shall continue until cancellation of the limited liability company's certificate of formation)~~).

Sec. 3. RCW 25.15.085 and 2002 c 74 s 17 are each amended to read as follows:

(1) Each document required by this chapter to be filed in the office of the secretary of state shall be executed in the following manner, or in compliance with the rules established to facilitate electronic filing under RCW 25.15.007, except as set forth in RCW 25.15.105(4)(b):

- (a) Each original certificate of formation must be signed by the person or persons forming the limited liability company;
- (b) A reservation of name may be signed by any person;
- (c) A transfer of reservation of name must be signed by, or on behalf of, the applicant for the reserved name;
- (d) A registration of name must be signed by any member or manager of the foreign limited liability company;

(e) A certificate of amendment or restatement must be signed by at least one manager, or by a member if management of the limited liability company is reserved to the members;

(f) A certificate of (~~cancelation~~) dissolution must be signed by the person or persons authorized to wind up the limited liability company's affairs pursuant to RCW 25.15.295(~~(+))~~ (3);

(g) If a surviving domestic limited liability company is filing articles of merger, the articles of merger must be signed by at least one manager, or by a member if management of the limited liability company is reserved to the members, or if the articles of merger are being filed by a surviving foreign limited liability company, limited partnership, or corporation, the articles of merger must be signed by a person authorized by such foreign limited liability company, limited partnership, or corporation; and

(h) A foreign limited liability company's application for registration as a foreign limited liability company doing business within the state must be signed by any member or manager of the foreign limited liability company.

(2) Any person may sign a certificate, articles of merger, limited liability company agreement, or other document by an attorney-in-fact or other person acting in a valid representative capacity, so long as each document signed in such manner identifies the capacity in which the signator signed.

(3) The person executing the document shall sign it and state beneath or opposite the signature the name of the person and capacity in which the person signs. The document must be typewritten or printed, and must meet such legibility or other standards as may be prescribed by the secretary of state.

(4) The execution of a certificate or articles of merger by any person constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

Sec. 4. RCW 25.15.095 and 2002 c 74 s 18 are each amended to read as follows:

(1) The original signed copy, together with a duplicate copy that may be either a signed, photocopied, or conformed copy, of the certificate of formation or any other document required to be filed pursuant to this chapter, except as set forth under RCW 25.15.105 or unless a duplicate is not required under rules adopted under RCW 25.15.007, shall be delivered to the secretary of state. If the secretary of state determines that the documents conform to the filing provisions of this chapter, he or she shall, when all required filing fees have been paid:

- (a) Endorse on each signed original and duplicate copy the word "filed" and the date of its acceptance for filing;
- (b) Retain the signed original in the secretary of state's files; and
- (c) Return the duplicate copy to the person who filed it or the person's representative.

(2) If the secretary of state is unable to make the determination required for filing by subsection (1) of this section at the time any documents are delivered for filing, the documents are deemed to have been filed at the time of delivery if the secretary of state subsequently determines that:

- (a) The documents as delivered conform to the filing provisions of this chapter; or
- (b) Within twenty days after notification of nonconformance is given by the secretary of state to the person who delivered the documents for filing or the person's representative, the documents are brought into conformance.

(3) If the filing and determination requirements of this chapter are not satisfied completely within the time prescribed in subsection (2)(b) of this section, the documents shall not be filed.

(4) Upon the filing of a certificate of amendment (or judicial decree of amendment) or restated certificate in the office of the secretary of state, or upon the future effective date or time of a certificate of amendment (or judicial decree thereof) or restated certificate, as provided for therein, the certificate of formation shall be

amended or restated as set forth therein. ~~((Upon the filing of a certificate of cancellation (or a judicial decree thereof), or articles of merger which act as a certificate of cancellation, or upon the future effective date or time of a certificate of cancellation (or a judicial decree thereof) or of articles of merger which act as a certificate of cancellation, as provided for therein, or as specified in RCW 25.15.290, the certificate of formation is canceled.))~~

Sec. 5. RCW 25.15.270 and 2009 c 437 s 1 are each amended to read as follows:

A limited liability company is dissolved and its affairs shall be wound up upon the first to occur of the following:

(1)(a) The dissolution date, if any, specified in the certificate of formation. If a dissolution date is not specified in the certificate of formation, the limited liability company's existence will continue until the first to occur of the events described in subsections (2) through (6) of this section. If a dissolution date is specified in the certificate of formation, the certificate of formation may be amended and the existence of the limited liability company may be extended by vote of all the members.

(b) This subsection does not apply to a limited liability company formed under RCW 30.08.025 or 32.08.025;

(2) The happening of events specified in a limited liability company agreement;

(3) The written consent of all members;

(4) Unless the limited liability company agreement provides otherwise, ninety days following an event of dissociation of the last remaining member, unless those having the rights of assignees in the limited liability company under RCW 25.15.130(1) have, by the ninetieth day, voted to admit one or more members, voting as though they were members, and in the manner set forth in RCW 25.15.120(1);

(5) The entry of a decree of judicial dissolution under RCW 25.15.275; or

(6) The ~~((expiration of five years after the effective date of dissolution under RCW 25.15.285 without the reinstatement))~~ administrative dissolution of the limited liability company by the secretary of state under RCW 25.15.285(2), unless the limited liability company is reinstated by the secretary of state under RCW 25.15.290.

NEW SECTION. Sec. 6. A new section is added to chapter 25.15 RCW to read as follows:

(1) After dissolution occurs under RCW 25.15.270, the limited liability company may deliver to the secretary of state for filing a certificate of dissolution signed in accordance with RCW 25.15.085.

(2) A certificate of dissolution filed under subsection (1) of this section must set forth:

(a) The name of the limited liability company; and

(b) A statement that the limited liability company is dissolved under RCW 25.15.270.

Sec. 7. RCW 25.15.290 and 2009 c 437 s 2 are each amended to read as follows:

(1) A limited liability company that has been administratively dissolved under RCW 25.15.285 may apply to the secretary of state for reinstatement within five years after the effective date of dissolution. The application must be delivered to the secretary of state for filing and state:

(a) ~~((Recite))~~ The name of the limited liability company and the effective date of its administrative dissolution;

(b) ~~((State))~~ That the ground or grounds for dissolution either did not exist or have been eliminated; and

(c) ~~((State))~~ That the limited liability company's name satisfies the requirements of RCW 25.15.010.

(2) If the secretary of state determines that ~~((the))~~ an application contains the information required by subsection (1) of this section and that the name is available, the secretary of state shall reinstate the limited liability company and give the limited liability company written notice, as provided in RCW 25.15.285(1), of the reinstatement

that recites the effective date of reinstatement. If the name is not available, the limited liability company must file with its application for reinstatement an amendment to its certificate of formation reflecting a change of name.

(3) When ~~((the))~~ reinstatement ~~((is))~~ becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited liability company may resume carrying on its ~~((business))~~ activities as if the administrative dissolution had never occurred.

~~((4) If an application for reinstatement is not made within the five year period set forth in subsection (1) of this section, or if the application made within this period is not granted, the limited liability company's certificate of formation is deemed canceled.))~~

Sec. 8. RCW 25.15.293 and 2009 c 437 s 3 are each amended to read as follows:

(1) A limited liability company ~~((voluntarily))~~ dissolved under RCW 25.15.270 ~~(2) or (3)~~ that has filed a certificate of dissolution under section 6 of this act may ~~((apply to the secretary of state for reinstatement))~~ revoke its dissolution within one hundred twenty days ~~((after the effective date))~~ of filing its certificate of dissolution. ~~((The application must:~~

~~— (a) Recite the name of the limited liability company and the effective date of its voluntary dissolution;~~

~~— (b) State that the ground or grounds for voluntary dissolution have been eliminated; and~~

~~— (c) State that the limited liability company's name satisfies the requirements of RCW 25.15.010.~~

~~(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the name is available, the secretary of state shall reinstate the limited liability company and give the limited liability company written notice of the reinstatement that recites the effective date of reinstatement. If the name is not available, the limited liability company must file with its application for reinstatement an amendment to its certificate of formation reflecting a change of name.~~

~~(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the voluntary dissolution and the limited liability company may resume carrying on its business as if the voluntary dissolution had never occurred.~~

~~(4) If an application for reinstatement is not made within the one hundred twenty day period set forth in subsection (1) of this section, or if the application made within this period is not granted, the secretary of state shall cancel the limited liability company's certificate of formation.))~~

(2)(a) Except as provided in (b) of this subsection, revocation of dissolution must be approved in the same manner as the dissolution was approved unless that approval permitted revocation in some other manner, in which event the dissolution may be revoked in the manner permitted.

(b) If dissolution occurred upon the happening of events specified in the limited liability company agreement, revocation of dissolution must be approved in the manner necessary to amend the provisions of the limited liability company agreement specifying the events of dissolution.

(3) After the revocation of dissolution is approved, the limited liability company may revoke the dissolution and the certificate of dissolution by delivering to the secretary of state for filing a certificate of revocation of dissolution that sets forth:

(a) The name of the limited liability company and a statement that the name satisfies the requirements of RCW 25.15.010; if the name is not available, the limited liability company must file a certificate of amendment changing its name with the certificate of revocation of dissolution;

(b) The effective date of the dissolution that was revoked;

(c) The date that the revocation of dissolution was approved;

(d) If the limited liability company's managers revoked the dissolution, a statement to that effect;

(e) If the limited liability company's managers revoked a dissolution approved by the company's members, a statement that revocation was permitted by action by the managers alone pursuant to that approval; and

(f) If member approval was required to revoke the dissolution, a statement that revocation of the dissolution was duly approved by the members in accordance with subsection (2) of this section.

(4) Revocation of dissolution and revocation of the certificate of dissolution are effective upon the filing of the certificate of revocation of dissolution.

(5) When the revocation of dissolution and revocation of the certificate of dissolution are effective, they relate back to and take effect as of the effective date of the dissolution and the limited liability company resumes carrying on its activities as if the dissolution had never occurred.

Sec. 9. RCW 25.15.295 and 1994 c 211 s 806 are each amended to read as follows:

((1) Unless otherwise provided in a limited liability company agreement, a manager who has not wrongfully dissolved a limited liability company or, if none, the members or a person approved by the members or, if there is more than one class or group of members, then by each class or group of members, in either case, by members contributing, or required to contribute, more than fifty percent of the agreed value (as stated in the records of the limited liability company required to be kept pursuant to RCW 25.15.135) of the contributions made, or required to be made, by all members, or by the members in each class or group, as appropriate, may wind up the limited liability company's affairs. The superior courts, upon cause shown, may wind up the limited liability company's affairs upon application of any member or manager, his or her legal representative or assignee, and in connection therewith, may appoint a receiver.

(2) Upon dissolution of a limited liability company and until the filing of a certificate of cancellation as provided in RCW 25.15.080, the persons winding up the limited liability company's affairs may, in the name of, and for and on behalf of, the limited liability company, prosecute and defend suits, whether civil, criminal, or administrative, gradually settle and close the limited liability company's business, dispose of and convey the limited liability company's property, discharge or make reasonable provision for the limited liability company's liabilities, and distribute to the members any remaining assets of the limited liability company.)

(1) A limited liability company continues after dissolution only for the purpose of winding up its activities.

(2) In winding up its activities, the limited liability company:

(a) May file a certificate of dissolution with the secretary of state to provide notice that the limited liability company is dissolved, preserve the limited liability company's business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited liability company's property, settle disputes, and perform other necessary acts; and

(b) Shall discharge the limited liability company's liabilities, settle and close the limited liability company's activities, and marshal and distribute the assets of the company.

(3) Unless otherwise provided in a limited liability company agreement, the persons responsible for managing the business and affairs of a limited liability company under RCW 25.15.150 are responsible for winding up the activities of a dissolved limited liability company. If a dissolved limited liability company does not have any managers or members, the legal representative of the last person to have been a member may wind up the activities of the dissolved limited liability company, in which event the legal representative is a manager for the purposes of RCW 25.15.155.

(4) If the persons responsible for winding up the activities of a dissolved limited liability company under subsection (3) of this section decline or fail to wind up the limited liability company's activities, a person to wind up the dissolved limited liability company's activities may be appointed by the consent of the transferees owning a majority of the rights to receive distributions as transferees at the time consent is to be effective. A person appointed under this subsection:

(a) Is a manager for the purposes of RCW 25.15.155; and

(b) Shall promptly amend the certificate of formation to state:

(i) The name of the person who has been appointed to wind up the limited liability company; and

(ii) The street and mailing address of the person.

(5) The superior court may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited liability company's activities, if:

(a) On application of a member, the applicant establishes good cause; or

(b) On application of a transferee, a limited liability company does not have any managers or members and within a reasonable time following the dissolution no person has been appointed pursuant to subsection (3) or (4) of this section.

NEW SECTION. Sec. 10. A new section is added to chapter 25.15 RCW to read as follows:

(1) A dissolved limited liability company that has filed a certificate of dissolution with the secretary of state may dispose of the known claims against it by following the procedure described in subsection (2) of this section.

(2) A dissolved limited liability company may notify its known claimants of the dissolution in a record. The notice must:

(a) Specify the information required to be included in a known claim;

(b) Provide a mailing address to which the known claim must be sent;

(c) State the deadline for receipt of the known claim, which may not be fewer than one hundred twenty days after the date the notice is received by the claimant; and

(d) State that the known claim will be barred if not received by the deadline.

(3) A known claim against a dissolved limited liability company is barred if the requirements of subsection (2) of this section are met and:

(a) The known claim is not received by the specified deadline; or

(b) In the case of a known claim that is timely received but rejected by the dissolved limited liability company, the claimant does not commence an action to enforce the known claim against the limited liability company within ninety days after the receipt of the notice of rejection.

(4) For purposes of this section, "known claim" means any claim or liability that either:

(a)(i) Has matured sufficiently, before or after the effective date of the dissolution, to be legally capable of assertion against the dissolved limited liability company, whether or not the amount of the claim or liability is known or determinable; or (ii) is unmatured, conditional, or otherwise contingent but may subsequently arise under any executory contract to which the dissolved limited liability company is a party, other than under an implied or statutory warranty as to any product manufactured, sold, distributed, or handled by the dissolved limited liability company; and

(b) As to which the dissolved limited liability company has knowledge of the identity and the mailing address of the holder of the claim or liability and, in the case of a matured and legally assertable claim or liability, actual knowledge of existing facts that either (i) could be asserted to give rise to, or (ii) indicate an intention by the holder to assert, such a matured claim or liability.

Sec. 11. RCW 25.15.303 and 2006 c 325 s 1 are each amended to read as follows:

Except as provided in section 10 of this act, the dissolution of a limited liability company does not take away or impair any remedy available to or against that limited liability company, its managers, or its members for any right or claim existing, or any liability incurred at any time, whether prior to or after dissolution, unless the limited liability company has filed a certificate of dissolution under section 6 of this act, that has not been revoked under RCW 25.15.293, and an action or other proceeding thereon is not commenced within three years after the ((effective date)) filing of the certificate of dissolution. Such an action or proceeding by or against the limited liability company may be prosecuted or defended by the limited liability company in its own name.

Sec. 12. RCW 25.15.340 and 1994 c 211 s 907 are each amended to read as follows:

(1) A foreign limited liability company doing business in this state may not maintain any action, suit, or proceeding in this state until it has registered in this state, and has paid to this state all fees and penalties for the years or parts thereof, during which it did business in this state without having registered.

(2) Neither the failure of a foreign limited liability company to register in this state ((does not impair)) nor the issuance of a certificate of cancellation with respect to a foreign limited liability company's registration in this state impairs:

(a) The validity of any contract or act of the foreign limited liability company;

(b) The right of any other party to the contract to maintain any action, suit, or proceeding on the contract; or

(c) ~~((Prevent))~~ The foreign limited liability company from defending any action, suit, or proceeding in any court of this state.

(3) A member or a manager of a foreign limited liability company is not liable for the obligations of the foreign limited liability company solely by reason of the limited liability company's having done business in this state without registration.

Sec. 13. RCW 25.15.805 and 1994 c 211 s 1302 are each amended to read as follows:

(1) The secretary of state shall adopt rules establishing fees which shall be charged and collected for:

(a) Filing of a certificate of formation for a domestic limited liability company or an application for registration of a foreign limited liability company;

(b) Filing of a certificate of ~~((cancellation))~~ dissolution for a domestic ~~((or foreign))~~ limited liability company;

(c) Filing a certificate of cancellation for a foreign limited liability company;

~~((d))~~ (d) Filing of a certificate of amendment or restatement for a domestic or foreign limited liability company;

~~((e))~~ (e) Filing an application to reserve, register, or transfer a limited liability company name;

~~((f))~~ (f) Filing any other certificate, statement, or report authorized or permitted to be filed;

~~((g))~~ (g) Copies, certified copies, certificates, service of process filings, and expedited filings or other special services.

(2) In the establishment of a fee schedule, the secretary of state shall, insofar as is possible and reasonable, be guided by the fee schedule provided for corporations governed by Title 23B RCW. Fees for copies, certified copies, certificates of record, and service of process filings shall be as provided for in RCW 23B.01.220.

(3) All fees collected by the secretary of state shall be deposited with the state treasurer pursuant to law.

NEW SECTION. Sec. 14. RCW 25.15.080 (Cancellation of certificate) and 1994 c 211 s 203 are each repealed."

On page 1, line 1 of the title, after "companies;" strike the remainder of the title and insert "amending RCW 25.15.005, 25.15.070, 25.15.085, 25.15.095, 25.15.270, 25.15.290, 25.15.293,

25.15.295, 25.15.303, 25.15.340, and 25.15.805; adding new sections to chapter 25.15 RCW; and repealing RCW 25.15.080."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2657 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 Substitute House Bill No. 2657, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2657, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Representatives Dickerson, Hope and Hurst.

SUBSTITUTE HOUSE BILL NO. 2657, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 2734 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.12.063 and 2006 c 17 s 2 are each amended to read as follows:

(1) It is the intent of the legislature to continue the department's policy giving priority consideration to abutting property owners in agricultural areas when disposing of property through its surplus property program under this section.

(2) Whenever the department determines that any real property owned by the state of Washington and under the jurisdiction of the department is no longer required for transportation purposes and that

it is in the public interest to do so, the department may sell the property or exchange it in full or part consideration for land or improvements or for construction of improvements at fair market value to any of the following governmental entities or persons:

- (a) Any other state agency;
- (b) The city or county in which the property is situated;
- (c) Any other municipal corporation;
- (d) Regional transit authorities created under chapter 81.112 RCW;
- (e) The former owner of the property from whom the state acquired title;
- (f) In the case of residentially improved property, a tenant of the department who has resided thereon for not less than six months and who is not delinquent in paying rent to the state;
- (g) Any abutting private owner but only after each other abutting private owner (if any), as shown in the records of the county assessor, is notified in writing of the proposed sale. If more than one abutting private owner requests in writing the right to purchase the property within fifteen days after receiving notice of the proposed sale, the property shall be sold at public auction in the manner provided in RCW 47.12.283;
- (h) To any person through the solicitation of written bids through public advertising in the manner prescribed by RCW 47.28.050;
- (i) To any other owner of real property required for transportation purposes;
- (j) In the case of property suitable for residential use, any nonprofit organization dedicated to providing affordable housing to very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510 and is eligible to receive assistance through the Washington housing trust fund created in chapter 43.185 RCW; ~~((o))~~

(k) A federally qualified community health center as defined in RCW 82.04.4311; or

(l) A federally recognized Indian tribe within whose reservation boundary the property is located.

(3) Sales to purchasers may at the department's option be for cash, by real estate contract, or exchange of land or improvements. Transactions involving the construction of improvements must be conducted pursuant to chapter 47.28 RCW or Title 39 RCW, as applicable, and must comply with all other applicable laws and rules.

(4) Conveyances made pursuant to this section shall be by deed executed by the secretary of transportation and shall be duly acknowledged.

(5) Unless otherwise provided, all moneys received pursuant to the provisions of this section less any real estate broker commissions paid pursuant to RCW 47.12.320 shall be deposited in the motor vehicle fund.

NEW SECTION. Sec. 2. Section 1 of this act expires June 30, 2012."

On page 1, line 3 of the title, after "transportation;" strike the remainder of the title and insert "amending RCW 47.12.063; and providing an expiration date."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 2734 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Kagi 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. 2734, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2734, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 74; Nays, 21; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Angel, Appleton, Bailey, Blake, Campbell, Carlyle, Chase, Clibborn, Cody, Conway, Dammeier, Darneille, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Lias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Santos, Seaquist, Sells, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Anderson, Armstrong, Chandler, Condotta, Crouse, DeBolt, Haler, Herrera, Johnson, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Ross, Schmick, Shea, Short and Taylor.

Excused: Representatives Dickerson, Hope and Hurst.

HOUSE BILL NO. 2734, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

RECONSIDERATION

There being no objection, the House immediately reconsidered the vote by which HOUSE BILL NO. 1966, as amended by the Senate, passed the House.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of House Bill No. 1966, as amended by the Senate, on reconsideration.

ROLL CALL

The Clerk called the roll on final passage of House Bill No. 1966, as amended by the Senate, on reconsideration, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Representatives Dickerson, Hope and Hurst.

HOUSE BILL NO. 1966, as amended by the Senate, on reconsideration, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 3, 2010

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 3076 with the following amendment:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. (1) The Washington institute for public policy shall, in collaboration with the department of social and health services and other applicable entities, undertake a search for a validated mental health assessment tool or combination of tools to be used by designated mental health professionals when undertaking assessments of individuals for detention, commitment, and revocation under the involuntary treatment act pursuant to chapter 71.05 RCW.

(2) This section expires June 30, 2011.

NEW SECTION. Sec. 2. A new section is added to chapter 71.05 RCW to read as follows:

(1) In determining whether a person is gravely disabled or presents a likelihood of serious harm, the court or evaluating designated mental health professional must consider the symptoms and behavior of the respondent in light of all available evidence or information concerning the respondent's historical behavior, as disclosed by the clinical record or credible witnesses with knowledge of the respondent.

(2) Symptoms or behavior which standing alone would not justify civil commitment may support an inference of grave disability or likelihood of serious harm when: (a) Such symptoms or behavior are closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration, or one or more violent acts; (b) these symptoms or behavior represent a marked and concerning change in the baseline behavior of the respondent; and (c) without treatment, the continued deterioration of the respondent is highly probable.

NEW SECTION. Sec. 3. A new section is added to chapter 71.05 RCW to read as follows:

(1) Whenever a person who is the subject of an involuntary commitment order under this chapter is discharged from an evaluation and treatment facility or state hospital, the evaluation and treatment facility or state hospital shall provide notice of the person's discharge to the designated mental health professional office responsible for the initial commitment and the designated mental health professional office that serves the county in which the person is expected to reside. The evaluation and treatment facility or state hospital must also provide these offices with a copy of any less restrictive order or conditional release order entered in conjunction with the discharge of the person, unless the evaluation and treatment facility or state hospital has entered into a memorandum of understanding obligating another entity to provide these documents.

(2) The notice and documents referred to in subsection (1) of this section shall be provided as soon as possible and no later than one business day following the discharge of the person. Notice is not required under this section if the discharge is for the purpose of transferring the person for continued detention and treatment under this chapter at another treatment facility.

(3) The department shall maintain and make available an updated list of contact information for designated mental health professional offices around the state.

NEW SECTION. Sec. 4. Section 2 of this act is effective January 1, 2012.

NEW SECTION. Sec. 5. A new section is added to chapter 9.94A RCW to read as follows:

(1) Before imposing any legal financial obligations upon a defendant who suffers from a mental health condition, other than restitution or the victim penalty assessment under RCW 7.68.035, a judge must first determine that the defendant, under the terms of this section, has the means to pay such additional sums.

(2) For the purposes of this section, a defendant suffers from a mental health condition when the defendant has been diagnosed with a mental disorder that prevents the defendant from participating in gainful employment, as evidenced by a determination of mental disability as the basis for the defendant's enrollment in a public assistance program, a record of involuntary hospitalization, or by competent expert evaluation.

NEW SECTION. Sec. 6. If specific funding for the purposes of sections 1 through 4 of this act, referencing this act by bill or chapter number, is not provided by June 30, 2010, in the omnibus appropriations act, sections 1 through 4 of this act are null and void."

On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "adding new sections to chapter 71.05 RCW; adding a new section to chapter 9.94A RCW; creating new sections; providing an effective date; and providing an expiration date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 3076 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

March 4, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2876 with the following amendment:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. A new section is added to chapter 18.22 RCW to read as follows:

(1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-922-510 through 246-922-540.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including:

(i) A dosage amount that must not be exceeded unless a podiatric physician and surgeon first consults with a practitioner specializing in pain management, at no additional cost to the patient; and

(ii) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management, including the specific circumstance of a patient requiring a stable and ongoing course of treatment for pain management in which an initial consultation shall suffice for that complete course of treatment.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and

the largest professional association of podiatric physicians and surgeons in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

NEW SECTION. Sec. 2. A new section is added to chapter 18.32 RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including:

(i) A dosage amount that must not be exceeded unless a dentist first consults with a practitioner specializing in pain management, at no additional cost to the patient; and

(ii) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management, including the specific circumstance of a patient requiring a stable and ongoing course of treatment for pain management in which an initial consultation shall suffice for that complete course of treatment.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of dentists in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

NEW SECTION. Sec. 3. A new section is added to chapter 18.57 RCW to read as follows:

(1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-853-510 through 246-853-540.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including:

(i) A dosage amount that must not be exceeded unless an osteopathic physician and surgeon first consults with a practitioner specializing in pain management, at no additional cost to the patient; and

(ii) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management, including the specific circumstance of a patient requiring a stable and ongoing course of treatment for pain management in which an initial consultation shall suffice for that complete course of treatment.

(b) Guidance on when to seek specialty consultation, including information on sufficient training and experience to exempt an osteopathic physician and surgeon from the specialty consultation requirement, and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and

the largest association of osteopathic physicians and surgeons in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

NEW SECTION. Sec. 4. A new section is added to chapter 18.57A RCW to read as follows:

(1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-854-120 through 246-854-150.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including:

(i) A dosage amount that must not be exceeded unless an osteopathic physician's assistant first consults with a practitioner specializing in pain management, at no additional cost to the patient; and

(ii) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management, including the specific circumstance of a patient requiring a stable and ongoing course of treatment for pain management in which an initial consultation shall suffice for that complete course of treatment.

(b) Guidance on when to seek specialty consultation, including information on sufficient training and experience to exempt an osteopathic physician's assistant from the specialty consultation requirement, and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest association of osteopathic physician's assistants in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

NEW SECTION. Sec. 5. A new section is added to chapter 18.71 RCW to read as follows:

(1) By June 30, 2011, the commission shall repeal its rules on pain management, WAC 246-919-800 through 246-919-830.

(2) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including:

(i) A dosage amount that must not be exceeded unless a physician first consults with a practitioner specializing in pain management, at no additional cost to the patient; and

(ii) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management, including the specific circumstance of a patient requiring a stable and ongoing course of treatment for pain management in which an initial consultation shall suffice for that complete course of treatment.

(b) Guidance on when to seek specialty consultation, including information on sufficient training and experience to exempt a physician from the specialty consultation requirement, and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of physicians in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

NEW SECTION. Sec. 6. A new section is added to chapter 18.71A RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including:

(i) A dosage amount that must not be exceeded unless a physician assistant first consults with a practitioner specializing in pain management, at no additional cost to the patient; and

(ii) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management, including the specific circumstance of a patient requiring a stable and ongoing course of treatment for pain management in which an initial consultation shall suffice for that complete course of treatment.

(b) Guidance on when to seek specialty consultation, including information on sufficient training and experience to exempt a physician assistant from the specialty consultation requirement, and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of physician assistants in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

NEW SECTION. Sec. 7. A new section is added to chapter 18.79 RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including:

(i) A dosage amount that must not be exceeded unless an advanced registered nurse practitioner or certified registered nurse anesthetist first consults with a practitioner specializing in pain management, at no additional cost to the patient; and

(ii) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management, including the specific circumstance of a patient requiring a stable and ongoing course of treatment for pain management in which an initial consultation shall suffice for that complete course of treatment.

(b) Guidance on when to seek specialty consultation, including information on sufficient training and experience to exempt an advanced registered nurse practitioner or certified registered nurse anesthetist from the specialty consultation requirement, and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional associations for advanced registered nurse practitioners and certified registered nurse anesthetists in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

NEW SECTION. Sec. 8. (1) The boards and commissions required to adopt rules on pain management under sections 1 through 7 of this act shall work collaboratively to ensure that the rules are as uniform as practicable.

(2) On January 11, 2011, each of the boards and commissions required to adopt rules on pain management under sections 1 through 7 of this act shall submit the proposed rules required by this act to the appropriate committees of the legislature."

On page 1, line 1 of the title, after "management;" strike the remainder of the title and insert "adding a new section to chapter 18.22 RCW; adding a new section to chapter 18.32 RCW; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.57A RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.71A RCW; adding a new section to chapter 18.79 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate Amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2876 and asked the Senate for a conference thereon. The Speaker (Representative Morris presiding) appointed Representatives Cody, Hinkle and Moeller as conferees.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1149 with the following amendment:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature recognizes that data breaches of credit and debit card information contribute to identity theft and fraud and can be costly to consumers. The legislature also recognizes that when a breach occurs, remedial measures such as reissuance of credit or debit cards affected by the breach can help to reduce the incidence of identity theft and associated costs to consumers. Accordingly, the legislature intends to encourage financial institutions to reissue credit and debit cards to consumers when appropriate, and to permit financial institutions to recoup data breach costs associated with the reissuance from large businesses and card processors who are negligent in maintaining or transmitting card data.

NEW SECTION. Sec. 2. A new section is added to chapter 19.255 RCW to read as follows:

(1) For purposes of this section:

(a) "Account information" means: (i) The full, unencrypted magnetic stripe of a credit card or debit card; (ii) the full, unencrypted account information contained on an identification device as defined under RCW 19.300.010; or (iii) the unencrypted primary account number on a credit card or debit card or identification device, plus any of the following if not encrypted: Cardholder name, expiration date, or service code.

(b) "Breach" has the same meaning as "breach of the security of the system" in RCW 19.255.010.

(c) "Business" means an individual, partnership, corporation, association, organization, government entity, or any other legal or commercial entity that processes more than six million credit card and debit card transactions annually, and who provides, offers, or sells goods or services to persons who are residents of Washington.

(d) "Credit card" has the same meaning as in RCW 9A.56.280.

(e) "Debit card" has the same meaning as in RCW 9A.56.280 and for the purposes of this section, includes a payroll debit card.

(f) "Encrypted" means enciphered or encoded using standards reasonable for the breached business or processor taking into account the business or processor's size and the number of transactions processed annually.

(g) "Financial institution" has the same meaning as in RCW 30.22.040.

(h) "Processor" means an individual, partnership, corporation, association, organization, government entity, or any other legal or commercial entity, other than a business as defined under this section, that directly processes or transmits account information for or on behalf of another person as part of a payment processing service.

(i) "Service code" means the three or four digit number in the magnetic stripe or on a credit card or debit card that is used to specify acceptance requirements or to validate the card.

(j) "Vendor" means an individual, partnership, corporation, association, organization, government entity, or any other legal or commercial entity that manufactures and sells software or equipment that is designed to process, transmit, or store account information or that maintains account information that it does not own.

(2) Processors, businesses, and vendors are not liable under this section if (a) the account information was encrypted at the time of the breach, or (b) the processor, business, or vendor was certified compliant with the payment card industry data security standards adopted by the payment card industry security standards council, and in force at the time of the breach. A processor, business, or vendor will be considered compliant, if its payment card industry data security compliance was validated by an annual security assessment, and if this assessment took place no more than one year prior to the time of the breach. For the purposes of this subsection (2), a processor, business, or vendor's security assessment of compliance is nonrevocable. The nonrevocability of a processor, business, or vendor's security assessment of compliance is only for the purpose of determining a processor, business, or vendor's liability under this subsection (2).

(3)(a) If a processor or business fails to take reasonable care to guard against unauthorized access to account information that is in the possession or under the control of the business or processor, and the failure is found to be the proximate cause of a breach, the processor or business is liable to a financial institution for reimbursement of reasonable actual costs related to the reissuance of credit cards and debit cards that are incurred by the financial institution to mitigate potential current or future damages to its credit card and debit card holders that reside in the state of Washington as a consequence of the breach, even if the financial institution has not suffered a physical injury in connection with the breach. In any legal action brought pursuant to this subsection, the prevailing party is entitled to recover its reasonable attorneys' fees and costs incurred in connection with the legal action.

(b) A vendor, instead of a processor or business, is liable to a financial institution for the damages described in (a) of this subsection to the extent that the damages were proximately caused by the vendor's negligence and if the claim is not limited or foreclosed by another provision of law or by a contract to which the financial institution is a party.

(4) Nothing in this section may be construed as preventing or foreclosing any entity responsible for handling account information on behalf of a business or processor from being made a party to an action under this section.

(5) Nothing in this section may be construed as preventing or foreclosing a processor, business, or vendor from asserting any defense otherwise available to it in an action including, but not limited to, defenses of contract, or of contributory or comparative negligence.

(6) In cases to which this section applies, the trier of fact shall determine the percentage of the total fault which is attributable to every entity which was the proximate cause of the claimant's damages.

(7) The remedies under this section are cumulative and do not restrict any other right or remedy otherwise available under law, however a trier of fact may reduce damages awarded to a financial institution by any amount the financial institution recovers from a credit card company in connection with the breach, for costs associated with access card reissuance.

NEW SECTION. Sec. 3. This act takes effect July 1, 2010.

NEW SECTION. Sec. 4. This act applies prospectively only. This act applies to any breach occurring on or after the effective date of this section."

On page 1, line 1 of the title, after "security;" strike the remainder of the title and insert "adding a new section to chapter 19.255 RCW; creating new sections; and providing an effective date."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1149 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

Representative Bailey 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 House Bill No. 1149, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1149, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 65; Nays, 30; Absent, 0; Excused, 3.

Voting yea: Representatives Appleton, Blake, Campbell, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Driscoll, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Hasegawa, Herrera, Hudgins, Hunt, Hunter, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy,

Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Warnick, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Chandler, Condotta, Crouse, Dammeier, DeBolt, Ericksen, Fagan, Haler, Hinkle, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Parker, Pearson, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor and Walsh.

Excused: Representatives Dickerson, Hope and Hurst.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1149, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1317 with the following amendment:

On page 2, line 24, after "and", strike "year", and insert "full date"

On page 2, line 24, after "birth", insert the following:

"For the purposes of this subsection, news media does not include any person or organization of persons in the custody of a criminal justice agency as defined in RCW 10.97.030."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1317 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Kessler 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 Second Substitute House Bill No. 1317, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1317, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Dammeier, Darneille, DeBolt, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Lias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt,

Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Dickerson, Hope and Hurst.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1317, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1714 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The insurance commissioner shall prepare and submit a report to the legislature related to the performance of the small group health plan market and the association health plan market. To the extent that the data needed to complete the report are not readily available, the commissioner may require carriers to submit aggregated data for the small group health plans and association health plans underwritten or administered by the carrier, for each calendar year 2005 through 2008. Data submitted shall not identify specific small group plans or association health plans, and the report shall not identify specific small group or association health plans or present data in a manner that allows identification of specific plans. Carriers who underwrite or administer an association health plan that covers fewer than ten thousand lives in any year reported may, at their own expense, contract with a third party to aggregate and report the information required under this section with that of other carriers who qualify for this option. The data must be reported separately for the carrier's small group health plan block of business and association health plan block of business, and must include the following information:

(a) The number of persons residing in Washington state who receive health benefit coverage through each block of business, including the number of persons enrolled in the plans on the first day and last day of each year, the number of persons enrolled in the plans during each year, and the number of persons who terminated enrollment in the plans during each year;

(b) The calendar year-end enrollment of each block of business, by age group using five-year increments beginning with age twenty and ending with age sixty-five, and the average age of persons covered in each block of business;

(c) The calendar year-end enrollment of each block of business by employer size for each year, reporting by groups of two to five, six to ten, eleven to twenty-five, twenty-six to fifty, fifty-one to one hundred, and more than one hundred;

(d) The annual calendar year earned premium and incurred claims for each block of business;

(e) For the association health plan block of business, the number of association health plans that limit eligibility for health plan coverage to employer groups of a minimum size, or that limit eligibility for health plan coverage to a subset of the industries that the association sponsoring the health plan was established to serve, and the percentage of health plan enrollees for whom each of the following elements is used in setting health plan rates:

(i) Claims experience;

(ii) Employer group size; or

(iii) Health status factors.

(2) In fulfilling the requirements of subsection (1) of this section the commissioner may adopt rules necessary to implement the data submission administrative process under this section, including the format, timing of data reporting, data standards, instructions, definitions, and data sources. The commissioner is prohibited from collecting data from carriers if any rules necessary to implement the data submission administrative process have not been adopted.

(3) The commissioner must allow carriers a minimum of ninety days to submit data once carriers have received instructions.

(4) For the purposes of this subsection, the terms "association health plan" and "association plan" shall include all member-governed group health plans and multiple employer welfare arrangements and any other arrangement to which two or more public or private employers, of which at least two are small employers, contribute to provide health care for their employees.

(5) Data, information, and documents provided by a carrier pursuant to this section are exempt from public inspection and copying under RCW 48.02.120 and chapters 42.17 and 42.56 RCW.

(6) The commissioner may enter into a personal services contract with a third-party contractor to assist with the analysis of the data described in subsection (1) of this section without having to comply with the restrictions set forth in sections 602 and 605, chapter 3, Laws of 2010. The third-party experts that prepare the analysis and report for the insurance commissioner shall submit the report directly to the appropriate committees of the legislature and the insurance commissioner. The report shall be submitted to the legislature no later than October 1, 2011.

(7) This section expires September 30, 2011.

Sec. 2. RCW 42.56.400 and 2009 c 104 s 23 are each amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595; ~~(and)~~

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii); and

(17) Data, information, and documents provided by a carrier pursuant to section 1 of this act."

On page 1, line 1 of the title, after "plans;" strike the remainder of the title and insert "amending RCW 42.56.400; creating a new section; and providing an expiration date."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1714 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

Representative Ericksen 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. 1714, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1714, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 60; Nays, 35; Absent, 0; Excused, 3.

Voting yea: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Driscoll, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall,

Pedersen, Pettigrew, 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, Campbell, Chandler, Condotta, Crouse, Dammeier, DeBolt, Ericksen, Fagan, Haler, Herrera, Hinkle, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Parker, Pearson, Priest, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh and Warnick.

Excused: Representatives Dickerson, Hope and Hurst.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1714, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on Engrossed Substitute House Bill No. 1714.

Ed Orcutt, 18th District.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1956 with the following amendment:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that there are many homeless persons in our state that are in need of shelter and other services that are not being provided by the state and local governments. The legislature also finds that in many communities, religious organizations play an important role in providing needed services to the homeless, including the provision of shelter upon property owned by the religious organization. By providing such shelter, the religious institutions in our communities perform a valuable public service that, for many, offers a temporary, stop-gap solution to the larger social problem of increasing numbers of homeless persons.

This act provides guidance to cities and counties in regulating homeless encampments within the community, but still leaves those entities with broad discretion to protect the health and safety of its citizens. It is the hope of this legislature that local governments and religious organizations can work together and utilize dispute resolution processes without the need for litigation.

NEW SECTION. Sec. 2. A new section is added to chapter 36.01 RCW to read as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A county may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

(3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

NEW SECTION. Sec. 3. A new section is added to chapter 35.21 RCW to read as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A city or town may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

(3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

NEW SECTION. Sec. 4. A new section is added to chapter 35A.21 RCW to read as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A code city may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

(3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

NEW SECTION. Sec. 5. Nothing in this act is intended to change applicable law or be interpreted to prohibit a county, city, town, or code city from applying zoning and land use regulations allowable under established law to real property owned by a religious organization, regardless of whether the property owned by the religious organization is used to provide shelter or housing to homeless persons.

NEW SECTION. Sec. 6. Nothing in this act supersedes a court ordered consent decree or other negotiated settlement between a public agency and religious organization entered into prior to July 1, 2010, for the purposes of establishing a temporary encampment for the homeless as provided in this act."

On page 1, line 2 of the title, after "church;" strike the remainder of the title and insert "adding a new section to chapter 36.01 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; and creating new sections."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1956 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Williams and Kelley spoke in favor of the passage of the bill.

Representatives Hinkle and Angel 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. 1956, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1956, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 57; Nays, 38; Absent, 0; Excused, 3.

Voting yea: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Driscoll, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kelley, Kenney, Kessler, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, 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, Campbell, Carlyle, Chandler, Condotta, Crouse, Dammeier, DeBolt, Ericksen, Fagan, Haler, Herrera, Hinkle, Johnson, Kirby, Klippert, Kretz, Kristiansen, McCune,

Nealey, Orcutt, Parker, Pearson, Priest, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh and Warnick.

Excused: Representatives Dickerson, Hope and Hurst.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1956, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2016 with the following amendment:

Strike everything after the enacting clause and insert the following:

"PART 1 GENERAL PROVISIONS

Sec. 101. RCW 42.17.020 and 2008 c 6 s 201 are each amended to read as follows:

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

(1) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

(2) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(3) "Authorized committee" means the political committee authorized by a candidate, or by the public official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or public official.

(4) "Ballot proposition" means any "measure" as defined by RCW 29A.04.091, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency (~~prior to~~) before its circulation for signatures.

(5) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.

(6) "Bona fide political party" means:

(a) An organization that has (~~filed a valid certificate of nomination with~~) been recognized as a minor political party by the secretary of state ((under chapter 29A.20 RCW)));

(b) The governing body of the state organization of a major political party, as defined in RCW 29A.04.086, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or

(c) The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.

(7) "Depository" means a bank (~~designated by a candidate or political committee pursuant to RCW 42.17.050~~), mutual savings bank, savings and loan association, or credit union doing business in this state.

(8) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17.050 (as recodified by this act), to perform the duties specified in that section.

(9) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or

(d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

(10) "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

(11) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

(12) "Commission" means the agency established under RCW 42.17.350 (as recodified by this act).

(13) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind(~~(- PROVIDED, That))~~. For the purpose of compliance with RCW 42.17.241 (as recodified by this act), ~~(the term)~~ "compensation" ~~(shall)~~ does not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

(14) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.

(15)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration;

(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, the person or persons named on the candidate's or committee's registration form who direct expenditures on behalf of the candidate or committee, or their agents;

(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising or electioneering communication prepared by a candidate, a political committee, or its authorized agent;

(iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(b) "Contribution" does not include:

(i) Standard interest on money deposited in a political committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political committee that is returned to the contributor within five business days of the date on which it is received by the candidate or political committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or

stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this ~~(section)~~ subsection, means services or labor for which the individual is not compensated by any person;

(vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts towards any applicable contribution limit of the person providing the facility;

(viii) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or

(B) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws; or

(ix) The performance of ministerial functions by a person on behalf of two or more candidates or political committees either as volunteer services defined in (b)(vi) of this subsection or for payment by the candidate or political committee for whom the services are performed as long as:

(A) The person performs solely ministerial functions;

(B) A person who is paid by two or more candidates or political committees is identified by the candidates and political committees on whose behalf services are performed as part of their respective statements of organization under RCW 42.17.040 (as recodified by this act); and

(C) The person does not disclose, except as required by law, any information regarding a candidate's or committee's plans, projects, activities, or needs, or regarding a candidate's or committee's contributions or expenditures that is not already publicly available from campaign reports filed with the commission, or otherwise engage in activity that constitutes a contribution under (a)(ii) of this subsection.

A person who performs ministerial functions under this subsection (15)(b)(ix) is not considered an agent of the candidate or committee as long as he or she has no authority to authorize expenditures or make decisions on behalf of the candidate or committee.

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.

(16) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

(17) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters(~~(- PROVIDED, That))~~. An election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

(18) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

(19) "Election cycle" means the period beginning on the first day of January after the date of the last previous general election for the office that the candidate seeks and ending on December 31st after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on December 31st after the special election.

(20) "Electioneering communication" means any broadcast, cable, or satellite television or radio transmission, United States postal service mailing, billboard, newspaper, or periodical that:

(a) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name;

(b) Is broadcast, transmitted, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and

(c) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value of five thousand dollars or more.

(21) "Electioneering communication" does not include:

(a) Usual and customary advertising of a business owned by a candidate, even if the candidate is mentioned in the advertising when the candidate has been regularly mentioned in that advertising appearing at least twelve months preceding his or her becoming a candidate;

(b) Advertising for candidate debates or forums when the advertising is paid for by or on behalf of the debate or forum sponsor, so long as two or more candidates for the same position have been invited to participate in the debate or forum;

(c) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is:

(i) Of primary interest to the general public;

(ii) In a news medium controlled by a person whose business is that news medium; and

(iii) Not a medium controlled by a candidate or a political committee;

(d) Slate cards and sample ballots;

(e) Advertising for books, films, dissertations, or similar works (i) written by a candidate when the candidate entered into a contract for such publications or media at least twelve months before becoming a candidate, or (ii) written about a candidate;

(f) Public service announcements;

(g) A mailed internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(h) An expenditure by or contribution to the authorized committee of a candidate for state, local, or judicial office; or

(i) Any other communication exempted by the commission through rule consistent with the intent of this chapter.

(22) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. ~~((The term))~~ "Expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. ~~((The term))~~ "Expenditure" shall not include the partial or complete repayment by a candidate or political committee

of the principal of a loan, the receipt of which loan has been properly reported.

(23) "Final report" means the report described as a final report in RCW 42.17.080(2) ~~(as recodified by this act)~~.

(24) "General election" for the purposes of RCW 42.17.640 ~~(as recodified by this act)~~ means the election that results in the election of a person to a state or local office. It does not include a primary.

(25) "Gift(~~(, " is as defined"))~~ has the definition in RCW 42.52.010.

(26) "Immediate family" includes the spouse or domestic partner, dependent children, and other dependent relatives, if living in the household. For the purposes of ~~((RCW 42.17.640 through 42.17.790))~~ the definition of "intermediary" in this section, "immediate family" means an individual's spouse or domestic partner, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse or the domestic partner of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse or domestic partner and the spouse or the domestic partner of any such person.

(27) "Incumbent" means a person who is in present possession of an elected office.

(28) "Independent expenditure" means an expenditure that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of ~~((five))~~ eight hundred dollars or more. A series of expenditures, each of which is under ~~((five))~~ eight hundred dollars, constitutes one independent expenditure if their cumulative value is ~~((five))~~ eight hundred dollars or more.

(29)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family ~~((as defined for purposes of RCW 42.17.640 through 42.17.790))~~, or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

(30) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.

(31) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state

of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state administrative procedure act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

(32) "Lobbyist" includes any person who lobbies either in his or her own or another's behalf.

(33) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he or she is compensated for acting as a lobbyist.

(34) "Ministerial functions" means an act or duty carried out as part of the duties of an administrative office without exercise of personal judgment or discretion.

(35) "Participate" means that, with respect to a particular election, an entity:

(a) Makes either a monetary or in-kind contribution to a candidate;

(b) Makes an independent expenditure or electioneering communication in support of or opposition to a candidate;

(c) Endorses a candidate ~~((prior to))~~ before contributions ~~((being))~~ are made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent;

(d) Makes a recommendation regarding whether a candidate should be supported or opposed ~~((prior to))~~ before a contribution ~~((being))~~ is made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent; or

(e) Directly or indirectly collaborates or consults with a subsidiary corporation or local unit on matters relating to the support of or opposition to a candidate, including, but not limited to, the amount of a contribution, when a contribution should be given, and what assistance, services or independent expenditures, or electioneering communications, if any, will be made or should be made in support of or opposition to a candidate.

(36) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

(37) ~~("Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.~~

~~—((38))~~ "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

~~(((39)))~~ (38) "Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

~~(((40)))~~ (39) "Primary" for the purposes of RCW 42.17.640 (as recodified by this act) means the procedure for nominating a candidate to state or local office under chapter 29A.52 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter 29A.52 RCW.

~~(((41)))~~ (40) "Public office" means any federal, state, judicial, county, city, town, school district, port district, special district, or other state political subdivision elective office.

~~(((42)))~~ (41) "Public record" ~~((includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or~~

~~characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives)) has the definition in RCW 42.56.010.~~

~~(((43)))~~ (42) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29A.56.120 and ending thirty days after the recall election.

~~(((44)))~~ (43) "Sponsor of an electioneering communications, independent expenditures, or political advertising" means the person paying for the electioneering communication, independent expenditure, or political advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

~~(((45) - "State"))~~ (44) "Legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

~~(((46)))~~ (45) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

~~(((47)))~~ (46) "State official" means a person who holds a state office.

~~(((48)))~~ (47) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate ~~((prior))~~ with respect to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17.065 (as recodified by this act).

~~(((49) - "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.~~

~~— As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires.))~~

PART 2

ELECTRONIC ACCESS

Sec. 201. RCW 42.17.367 and 1999 c 401 s 9 are each amended to read as follows:

~~((By February 1, 2000,))~~ The commission shall operate a web site or contract for the operation of a web site that allows access to reports, copies of reports, or copies of data and information submitted in reports, filed with the commission under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, ~~((and))~~ 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180 (as recodified by this act). ~~((By January 1, 2001, the web site shall allow access to reports, copies of reports, or copies of data and information submitted in reports, filed with the commission under RCW 42.17.150, 42.17.170, 42.17.175, and 42.17.180.))~~ In addition, the commission shall attempt to make available via the web site other public records submitted to or generated by the commission that are required by this chapter to be available for public use or inspection.

Sec. 202. RCW 42.17.369 and 2000 c 237 s 3 are each amended to read as follows:

(1) ~~((By July 1, 1999,))~~ The commission shall make available to candidates, public officials, and political committees that are required to file reports under this chapter an electronic filing alternative for submitting financial affairs reports, contribution reports, and expenditure reports ~~((including but not limited to filing by diskette, modem, satellite, or the Internet)).~~

(2) ~~((By January 1, 2002,))~~ The commission shall make available to lobbyists and lobbyists' employers required to file reports under RCW 42.17.150, 42.17.170, 42.17.175, or 42.17.180 (as recodified by this act) an electronic filing alternative for submitting these reports ~~((including but not limited to filing by diskette, modem, satellite, or the Internet)).~~

(3) The commission shall make available to candidates, public officials, political committees, lobbyists, and lobbyists' employers an electronic copy of the appropriate reporting forms at no charge.

Sec. 203. RCW 42.17.461 and 2000 c 237 s 5 are each amended to read as follows:

~~((4))~~ The commission shall establish goals that all reports, copies of reports, or copies of the data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180 (as recodified by this act), that are:

~~((a) Submitted using the commission's electronic filing system shall be accessible in the commission's office within two business days of the commission's receipt of the report and shall be accessible on the commission's web site within seven business days of the commission's receipt of the report; and~~

~~—(b) Submitted in any format or using any method other than as described in (a) of this subsection, shall be accessible in the commission's office within four business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, and shall be accessible on the commission's web site within fourteen business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, as specified in rule adopted by the commission.~~

~~(2) On January 1, 2001, or shortly thereafter, the commission shall revise these goals to reflect that all reports, copies of reports, or copies of the data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180, that are:~~

~~—(a) Submitted using the commission's electronic filing system shall be accessible in the commission's office within two business days of the commission's receipt of the report and on the commission's web site within four business days of the commission's receipt of the report; and~~

~~—(b) Submitted in any format or using any method other than as described in (a) of this subsection, shall be accessible in the commission's office within four business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, and on the commission's web site within seven business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, as specified in rule adopted by the commission.~~

~~(3) On January 1, 2002, or shortly thereafter, the commission shall revise these goals to reflect that all reports, copies of reports, or copies of the data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180, that are:~~

~~—(a)) (1) Submitted using the commission's electronic filing system must be accessible in the commission's office and on the commission's web site within two business days of the commission's receipt of the report; and~~

~~((b)) (2) Submitted ((in any format or using any method other than as described in (a) of this subsection,)) on paper must be~~

accessible in the commission's office and on the commission's web site within four business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420 (as recodified by this act), as specified in rule adopted by the commission.

Sec. 204. RCW 42.17.463 and 1999 c 401 s 3 are each amended to read as follows:

By July 1st of each year ~~((beginning in 2000)),~~ the commission shall calculate the following performance measures, provide a copy of the performance measures to the governor and appropriate legislative committees, and make the performance measures available to the public:

(1) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17.040, 42.17.065, 42.17.080, and 42.17.100 (as recodified by this act) and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(2) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17.105 (as recodified by this act) and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(3) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17.150, 42.17.170, 42.17.175, and 42.17.180 (as recodified by this act) and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(4) The percentage of candidates, categorized as statewide, ~~((state))~~ legislative, or local, that have used each of the following methods to file reports under RCW 42.17.080 or 42.17.105 (as recodified by this act): (a) Hard copy paper format; ~~((b) electronic format via diskette; (c) electronic format via modem or satellite; (d))~~ or (b) electronic format via the Internet; ~~((and (e) any other format or method;))~~

(5) The percentage of continuing political committees that have used each of the following methods to file reports under RCW 42.17.065 or 42.17.105 (as recodified by this act): (a) Hard copy paper format; ~~((b) electronic format via diskette; (c) electronic format via modem or satellite; (d))~~ or (b) electronic format via the Internet; ~~((and (e) any other format or method;))~~ and

(6) The percentage of lobbyists and lobbyists' employers that have used each of the following methods to file reports under RCW 42.17.150, 42.17.170, 42.17.175, or 42.17.180 (as recodified by this act): (a) Hard copy paper format; ~~((b) electronic format via diskette; (c) electronic format via modem or satellite; (d))~~ or (b) electronic format via the Internet ~~((; and (e) any other format or method)).~~

PART 3 ADMINISTRATION

Sec. 301. RCW 42.17.350 and 1998 c 30 s 1 are each amended to read as follows:

(1) ~~((There is hereby established a—""))~~ The public disclosure commission ("which") is established. The commission shall be composed of five members ~~((who shall be))~~ appointed by the governor, with the consent of the senate. All appointees shall be persons of the highest integrity and qualifications. No more than three members shall have an identification with the same political party.

(2) The term of each member shall be five years. No member is eligible for appointment to more than one full term. Any member may be removed by the governor, but only upon grounds of neglect of duty or misconduct in office.

(3) During his or her tenure, a member of the commission is prohibited from engaging in any of the following activities, either within or outside the state of Washington:

- (a) Holding or campaigning for elective office;
- (b) Serving as an officer of any political party or political committee;
- (c) Permitting his or her name to be used in support of or in opposition to a candidate or proposition;
- (d) Soliciting or making contributions to a candidate or in support of or in opposition to any candidate or proposition;
- (e) Participating in any way in any election campaign; or
- (f) Lobbying, employing, or assisting a lobbyist, except that a member or the staff of the commission may lobby to the limited extent permitted by RCW 42.17.190 (as recodified by this act) on matters directly affecting this chapter.

(4) A vacancy on the commission shall be filled within thirty days of the vacancy by the governor, with the consent of the senate, and the appointee shall serve for the remaining term of his or her predecessor. A vacancy shall not impair the powers of the remaining members to exercise all of the powers of the commission.

(5) Three members of the commission shall constitute a quorum. The commission shall elect its own chair and adopt its own rules of procedure in the manner provided in chapter 34.05 RCW.

(6) Members shall be compensated in accordance with RCW 43.03.250 and ~~(in addition)~~ shall be reimbursed for travel expenses incurred while engaged in the business of the commission as provided in RCW 43.03.050 and 43.03.060. The compensation provided pursuant to this section shall not be considered salary for purposes of the provisions of any retirement system created ~~(pursuant to)~~ under the (general) laws of this state.

Sec. 302. RCW 42.17.360 and 1973 c 1 s 36 are each amended to read as follows:

The commission shall:

- (1) Develop and provide forms for the reports and statements required to be made under this chapter;
- (2) Prepare and publish a manual setting forth recommended uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter;
- (3) Compile and maintain a current list of all filed reports and statements;
- (4) Investigate whether properly completed statements and reports have been filed within the times required by this chapter;
- (5) Upon complaint or upon its own motion, investigate and report apparent violations of this chapter to the appropriate law enforcement authorities;
- (6) Conduct a sufficient number of audits and field investigations to provide a statistically valid finding regarding the degree of compliance with the provisions of this chapter by all required filers. Any documents, records, reports, computer files, papers, or materials provided to the commission for use in conducting audits and investigations must be returned to the candidate, campaign, or political committee from which they were received within one week of the commission's completion of an audit or field investigation;
- ~~(7) Prepare and publish an annual report to the governor as to the effectiveness of this chapter and its enforcement by appropriate law enforcement authorities; (and~~
- ~~(7))~~ (8) Enforce this chapter according to the powers granted it by law;
- (9) Adopt rules governing the arrangement, handling, indexing, and disclosing of those reports required by this chapter to be filed with a county auditor or county elections official. The rules shall:
 - (a) Ensure ease of access by the public to the reports; and
 - (b) Include, but not be limited to, requirements for indexing the reports by the names of candidates or political committees and by the ballot proposition for or against which a political committee is receiving contributions or making expenditures;

(10) Adopt rules to carry out the policies of chapter 348, Laws of 2006. The adoption of these rules is not subject to the time restrictions of RCW 42.17.370(1) (as recodified by this act);

(11) Adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports; and

(12) Maintain and make available to the public and political committees of this state a toll-free telephone number.

Sec. 303. RCW 42.17.370 and 1995 c 397 s 17 are each amended to read as follows:

The commission ~~(is empowered to)~~ may:

(1) Adopt, ~~(promulgate)~~, amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.05 RCW. Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a general election year shall take effect no earlier than the day following the general election in that year;

(2) Appoint an executive director and set, within the limits established by the state committee on agency officials' salaries under RCW 43.03.028, the executive director's compensation ~~(of an executive director who)~~. The executive director shall perform such duties and have such powers as the commission may prescribe and delegate to implement and enforce this chapter efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor ~~(shall)~~ may it delegate authority to determine whether an actual violation of this chapter has occurred or to assess penalties for such violations;

(3) Prepare and publish ~~(such)~~ reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(4) ~~(Make from time to time, on its own motion)~~ Conduct, as it deems appropriate, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence, and require the production of any ~~(books, papers, correspondence, memorandums, or other)~~ records relevant ~~(or material for the purpose of)~~ to any investigation authorized under this chapter, or any other proceeding under this chapter;

(7) Adopt ~~(and promulgate)~~ a code of fair campaign practices;

(8) ~~(Relieve, by rule)~~ Adopt rules relieving candidates or political committees of obligations to comply with the election campaign provisions of this chapter ~~(relating to election campaigns)~~, if they have not received contributions nor made expenditures in connection with any election campaign of more than ~~(one)~~ five thousand dollars;

(9) Adopt rules prescribing reasonable requirements for keeping accounts of, and reporting on a quarterly basis, costs incurred by state agencies, counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. ~~(The term)~~ For the purposes of this subsection, "legislative information~~(s)~~" ~~(for the purposes of this subsection,)~~ means books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his or her regular examination of each agency under chapter 43.09 RCW shall review the rules, accounts, and reports and make appropriate findings, comments, and recommendations ~~(in his or her examination reports)~~ concerning those agencies; and

(10) ~~(After hearing, by order approved and ratified by a majority of the membership of the commission, suspend or modify any of the~~

reporting requirements of this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that the suspension or modification will not frustrate the purposes of the chapter. The commission shall find that a manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) would be likely to adversely affect the competitive position of any entity in which the person filing the report or any member of his or her immediate family holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more. Any suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required under this section. Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. No initial request may be heard in a brief adjudicative proceeding and no request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted. The commission shall adopt administrative rules governing the proceedings. Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order; and

—(11) Revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter (reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials), the revisions shall equally affect all thresholds within each category. Revisions shall be adopted as rules under chapter 34.05 RCW. The first revision authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold through December 1985;

—(12)) Develop and provide to filers a system for certification of reports required under this chapter which are transmitted by facsimile or electronically to the commission. Implementation of the program is contingent on the availability of funds.

NEW SECTION. Sec. 304. SUSPENSION OR MODIFICATION OF REPORTING REQUIREMENTS. (1) The commission may suspend or modify any of the reporting requirements of this chapter if it finds that literal application of this chapter works a manifestly unreasonable hardship in a particular case and the suspension or modification will not frustrate the purposes of this chapter. The commission may suspend or modify reporting requirements only after a hearing is held and the suspension or modification receives approval from a majority of the commission. The commission shall act to suspend or modify any reporting requirements:

(a) Only if it determines that facts exist that are clear and convincing proof of the findings required under this section; and

(b) Only to the extent necessary to substantially relieve the hardship.

(2) A manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) (as recodified by this act) would be likely to

adversely affect the competitive position of any entity in which the person filing the report, or any member of his or her immediate family, holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more.

(3) Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. No initial request may be heard in a brief adjudicative proceeding. No request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted.

(4) Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order.

(5) The commission shall adopt rules governing the proceedings.

Sec. 305. RCW 42.17.690 and 1993 c 2 s 9 are each amended to read as follows:

(1) At the beginning of each even-numbered calendar year, the commission shall increase or decrease ~~((a))~~ the dollar amounts in ~~((this chapter))~~ RCW 42.17.020(28), 42.17.125(3), 42.17.180(1), 42.17.640, 42.17.645, and 42.17.740 (as recodified by this act) based on changes in economic conditions as reflected in the inflationary index ~~((used by the commission under RCW 42.17.370))~~ recommended by the office of financial management. The new dollar amounts established by the commission under this section shall be rounded off ~~((by the commission))~~ to amounts as judged most convenient for public understanding and so as to be within ten percent of the target amount equal to the base amount provided in this chapter multiplied by the increase in the inflationary index since ~~((December 3, 1992))~~ July 2008.

(2) The commission may revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter, reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials, the revisions shall equally affect all thresholds within each category. The revisions authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold.

(3) Revisions made in accordance with subsections (1) and (2) of this section shall be adopted as rules under chapter 34.05 RCW.

Sec. 306. RCW 42.17.380 and 1982 c 35 s 196 are each amended to read as follows:

~~((1)) The office of the secretary of state shall be designated as a place where the public may file papers or correspond with the commission and receive any form or instruction from the commission.~~

~~((2))~~ The attorney general, through his or her office, shall ((supply such)) provide assistance as ((the commission may require in order)) required by the commission to carry out its responsibilities under this chapter. The commission may employ attorneys who are neither the attorney general nor an assistant attorney general to carry out any function of the attorney general prescribed in this chapter.

Sec. 307. RCW 42.17.405 and 2006 c 240 s 2 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (7) of this section, the reporting provisions of this chapter do not apply to:

(a) Candidates, elected officials, and agencies in political subdivisions with less than one thousand registered voters as of the date of the most recent general election in the jurisdiction~~((, to);~~

(b) Political committees formed to support or oppose candidates or ballot propositions in such political subdivisions~~((;); or ((to))~~

(c) Persons making independent expenditures in support of or opposition to such ballot propositions.

(2) The reporting provisions of this chapter apply in any exempt political subdivision from which a "petition for disclosure" containing the valid signatures of fifteen percent of the number of registered voters, as of the date of the most recent general election in the political subdivision, is filed with the commission. The commission shall by rule prescribe the form of the petition. After the signatures are gathered, the petition shall be presented to the auditor or elections officer of the county, or counties, in which the political subdivision is located. The auditor or elections officer shall verify the signatures and certify to the commission that the petition contains no less than the required number of valid signatures. The commission, upon receipt of a valid petition, shall order every known affected person in the political subdivision to file the initially required statement and reports within fourteen days of the date of the order.

(3) The reporting provisions of this chapter apply in any exempt political subdivision that by ordinance, resolution, or other official action has petitioned the commission to make the provisions applicable to elected officials and candidates of the exempt political subdivision. A copy of the action shall be sent to the commission. If the commission finds the petition to be a valid action of the appropriate governing body or authority, the commission shall order every known affected person in the political subdivision to file the initially required statement and reports within fourteen days of the date of the order.

(4) The commission shall void any order issued by it pursuant to subsection (2) or (3) of this section when, at least four years after issuing the order, the commission is presented a petition or official action so requesting from the affected political subdivision. Such petition or official action shall meet the respective requirements of subsection (2) or (3) of this section.

(5) Any petition for disclosure, ordinance, resolution, or official action of an agency petitioning the commission to void the exemption in RCW 42.17.030(3) (as recodified by this act) shall not be considered unless it has been filed with the commission:

(a) In the case of a ballot measure, at least sixty days before the date of any election in which campaign finance reporting is to be required;

(b) In the case of a candidate, at least sixty days before the first day on which a person may file a declaration of candidacy for any election in which campaign finance reporting is to be required.

(6) Any person exempted from reporting under this chapter may at his or her option file the statement and reports.

(7) The reporting provisions of this chapter apply to a candidate in any political subdivision if the candidate receives or expects to receive five thousand dollars or more in contributions.

Sec. 308. RCW 42.17.420 and 1999 c 401 s 10 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, ((when)) the date of receipt of any properly addressed application, report, statement, notice, or payment required to be made under the provisions of this chapter ~~((has been deposited postpaid in the United States mail properly addressed, it shall be deemed to have been received on the date of mailing. It shall be presumed that))~~ is the date shown by the post office cancellation mark on the envelope ~~((is the date of mailing))~~ of the submitted material. The provisions of this section do not apply to reports required to be delivered under RCW 42.17.105 and 42.17.175 (as recodified by this act).

(2) When a report is filed electronically with the commission, it is deemed to have been received on the file transfer date. The

commission shall notify the filer of receipt of the electronically filed report. Such notification may be sent by mail, facsimile, or electronic mail. If the notification of receipt of the electronically filed report is not received by the filer, the filer may offer his or her own proof of sending the report, and such proof shall be treated as if it were a receipt sent by the commission. Electronic filing may be used for purposes of filing the special reports required to be delivered under RCW 42.17.105 and 42.17.175 (as recodified by this act).

Sec. 309. RCW 42.17.450 and 1973 c 1 s 45 are each amended to read as follows:

~~((Persons with whom statements or reports or copies of statements or reports are required to be filed under this chapter))~~ (1) County auditors and county elections officials shall preserve ((them)) filed statements or reports for not less than six years.

(2) The commission~~((, however,))~~ shall preserve ~~((such))~~ filed statements or reports for not less than ten years.

PART 4

CAMPAIGN FINANCE REPORTING

Sec. 401. RCW 42.17.030 and 2006 c 240 s 1 are each amended to read as follows:

The provisions of this chapter relating to the financing of election campaigns shall apply in all election campaigns other than (1) for precinct committee officer; (2) for a federal elective office; and (3) for an office of a political subdivision of the state that does not encompass a whole county and that contains fewer than five thousand registered voters as of the date of the most recent general election in the subdivision, unless required by RCW 42.17.405 (2) through (5) and (7) (as recodified by this act).

Sec. 402. RCW 42.17.040 and 2007 c 358 s 2 are each amended to read as follows:

(1) Every political committee~~((, within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier,))~~ shall file a statement of organization with the commission and with the county auditor or elections officer of the county in which the candidate resides, or in the case of any other political committee, the county in which the treasurer resides. The statement must be filed within two weeks after organization or within two weeks after the date the committee first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier. A political committee organized within the last three weeks before an election and having the expectation of receiving contributions or making expenditures during and for that election campaign shall file a statement of organization within three business days after its organization or when it first has the expectation of receiving contributions or making expenditures in the election campaign.

(2) The statement of organization shall include but not be limited to:

- (a) The name and address of the committee;
- (b) The names and addresses of all related or affiliated committees or other persons, and the nature of the relationship or affiliation;
- (c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders;
- (d) The name and address of its treasurer and depository;
- (e) A statement whether the committee is a continuing one;
- (f) The name, office sought, and party affiliation of each candidate whom the committee is supporting or opposing, and, if the committee is supporting the entire ticket of any party, the name of the party;
- (g) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition;
- (h) What distribution of surplus funds will be made, in accordance with RCW 42.17.095 (as recodified by this act), in the event of dissolution;

(i) The street address of the place and the hours during which the committee will make available for public inspection its books of account and all reports filed in accordance with RCW 42.17.080 (as recodified by this act);

(j) Such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter;

(k) The name, address, and title of any person who authorizes expenditures or makes decisions on behalf of the candidate or committee; and

(l) The name, address, and title of any person who is paid by or is a volunteer for a candidate or political committee to perform ministerial functions and who performs ministerial functions on behalf of two or more candidates or committees.

(3) Any material change in information previously submitted in a statement of organization shall be reported to the commission and to the appropriate county elections officer within the ten days following the change.

Sec. 403. RCW 42.17.050 and 1989 c 280 s 3 are each amended to read as follows:

(1) Each candidate, within two weeks after becoming a candidate, and each political committee, at the time it is required to file a statement of organization, shall designate and file with the commission and the appropriate county elections officer the name(s) and address(es) of(~~—~~

~~(a)) one legally competent individual, who may be the candidate, to serve as a treasurer(~~—~~and~~

~~(b) A bank, mutual savings bank, savings and loan association, or credit union doing business in this state to serve as depository and the name of the account or accounts maintained in it).~~

(2) A candidate, a political committee, or a treasurer may appoint as many deputy treasurers as is considered necessary and ~~(may designate not more than one additional depository in each other county in which the campaign is conducted. The candidate or political committee)~~ shall file the names and addresses of the deputy treasurers ~~(and additional depositories)~~ with the commission and the appropriate county elections officer.

(3) ~~((A candidate may not knowingly establish, use, direct, or control more than one political committee for the purpose of supporting that candidate during a particular election campaign. This does not prohibit: (a) In addition to a candidate's having his or her own political committee, the candidate's participation in a political committee established to support a slate of candidates which includes the candidate; or (b) joint fund raising efforts by candidates when a separate political committee is established for that purpose and all contributions are disbursed to and accounted for on a pro rata basis by the benefiting candidates.~~

~~(4))~~(a) A candidate or political committee may at any time remove a treasurer or deputy treasurer ~~((or change a designated depository)).~~

(b) In the event of the death, resignation, removal, or change of a treasurer(~~(;)~~) or deputy treasurer, ~~((or depository;))~~ the candidate or political committee shall designate and file with the commission and the appropriate county elections officer the name and address of any successor.

~~((5))~~ (4) No treasurer(~~(;)~~) or deputy treasurer(~~(— or depository;))~~) may be deemed to be in compliance with the provisions of this chapter until his or her name and address is filed with the commission and the appropriate county elections officer.

NEW SECTION. Sec. 404. DEPOSITORIES. Each candidate and each political committee shall designate and file with the commission and the appropriate county elections officer the name and address of not more than one depository for each county in which the campaign is conducted in which the candidate's or political committee's accounts are maintained and the name of the account or accounts maintained in that depository on behalf of the candidate or political committee. The candidate or political committee may at any

time change the designated depository and shall file with the commission and the appropriate county elections officer the same information for the successor depository as for the original depository. The candidate or political committee may not be deemed in compliance with the provisions of this chapter until the information required for the depository is filed with the commission and the appropriate county elections officer.

Sec. 405. RCW 42.17.060 and 1989 c 280 s 4 are each amended to read as follows:

(1) All monetary contributions received by a candidate or political committee shall be deposited by the treasurer or deputy treasurer in a depository in an account established and designated for that purpose. Such deposits shall be made within five business days of receipt of the contribution.

(2) Political committees ~~((which))~~ that support or oppose more than one candidate or ballot proposition, or exist for more than one purpose, may maintain multiple separate bank accounts within the same designated depository for such purpose~~((— PROVIDED, That))~~ only if:

(a) Each such account ((shall)) bears the same name;

(b) Each such account is followed by an appropriate designation ((which)) that accurately identifies its separate purpose((— AND PROVIDED FURTHER, That)); and

(c) Transfers of funds ((which)) that must be reported under RCW 42.17.090(1)((d) may) (e) (as recodified by this act) are not ((be)) made from more than one such account.

(3) Nothing in this section prohibits a candidate or political committee from investing funds on hand in a depository in bonds, certificates, or tax-exempt securities, or in savings accounts or other similar instruments in financial institutions, or in mutual funds other than the depository~~((— PROVIDED, That))~~ but only if:

(a) The commission and the appropriate county elections officer ((is)) are notified in writing of the initiation and the termination of the investment((— PROVIDED FURTHER, That)); and

(b) The principal of such investment, when terminated together with all interest, dividends, and income derived from the investment ((are)), is deposited in the depository in the account from which the investment was made and properly reported to the commission and the appropriate county elections officer ((prior to)) before any further disposition or expenditure ((thereof)).

(4) Accumulated unidentified contributions, other than those made by persons whose names must be maintained on a separate and private list by a political committee's treasurer pursuant to RCW 42.17.090(1)(b) (as recodified by this act), ~~((which total))~~ in excess of one percent of the total accumulated contributions received in the current calendar year, or three hundred dollars ~~((;))~~, whichever is more~~((;))~~, may not be deposited, used, or expended, but shall be returned to the donor~~((;))~~ if his or her identity can be ascertained. If the donor cannot be ascertained, the contribution shall escheat to the state~~((;))~~ and shall be paid to the state treasurer for deposit in the state general fund.

~~((5)) A contribution of more than fifty dollars in currency may not be accepted unless a receipt, signed by the contributor and by the candidate, treasurer, or deputy treasurer, is prepared and made a part of the campaign's or political committee's financial records.)~~

Sec. 406. RCW 42.17.065 and 2000 c 237 s 1 are each amended to read as follows:

(1) In addition to the provisions of this section, a continuing political committee shall file and report on the same conditions and at the same times as any other committee in accordance with the provisions of RCW 42.17.040, 42.17.050, and 42.17.060 (as recodified by this act).

(2) A continuing political committee shall file ~~((with the commission and the auditor or elections officer of the county in which the committee maintains its office or headquarters and if there is no such office or headquarters then in the county in which the committee~~

~~treasurer resides~~) a report on the tenth day of ~~((the))~~ each month detailing ~~((its activities))~~ expenditures made and contributions received for the preceding calendar month ~~((in which the committee has received a contribution or made an expenditure: PROVIDED, That such)),~~ This report ~~((shall))~~ need only be filed if either the total contributions received or total expenditures made since the last such report exceed two hundred dollars~~((: PROVIDED FURTHER, That after January 1, 2002, if the committee files with the commission electronically, it need not also file with the county auditor or elections officer)).~~ The report must be filed with the commission and the auditor or elections officer of the county in which the committee maintains its office or headquarters. If the committee does not have an office or headquarters, the report must be filed in the county where the committee treasurer resides. However, if the committee files with the commission electronically, it need not also file with the county auditor or elections officer. The report shall be on a form supplied by the commission and shall include the following information:

(a) The information required by RCW 42.17.090 (as recodified by this act);

(b) Each expenditure made to retire previously accumulated debts of the committee~~((:))~~ identified by recipient, amount, and date of payments;

(c) ~~((Such))~~ Other information ~~((as))~~ the commission shall prescribe by rule ~~((prescribe))~~.

(3) If a continuing political committee ~~((shall))~~ makes a contribution in support of or in opposition to a candidate or ballot proposition within sixty days ~~((prior to))~~ before the date ~~((on which such))~~ that the candidate or ballot proposition will be voted upon, ~~((such continuing political))~~ the committee shall report pursuant to RCW 42.17.080 (as recodified by this act).

(4) A continuing political committee shall file reports as required by this chapter until it is dissolved, at which time a final report shall be filed. Upon submitting a final report, the duties of the ~~((campaign))~~ treasurer shall cease and there shall be no obligation to make any further reports.

(5) The ~~((campaign))~~ treasurer shall maintain books of account, current within five business days, that accurately ~~((reflecting))~~ reflect all contributions and expenditures ~~((on a current basis within five business days of receipt or expenditure)).~~ During the eight days immediately preceding the date of any election ~~((, for which))~~ that the committee has received any contributions or made any expenditures, the books of account shall be kept current within one business day and shall be open for public inspection in the same manner as provided for candidates and other political committees in RCW 42.17.080(5) (as recodified by this act).

(6) All reports filed pursuant to this section shall be certified as correct by the ~~((campaign))~~ treasurer.

(7) The ~~((campaign))~~ treasurer shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

Sec. 407. RCW 42.17.067 and 1989 c 280 s 6 are each amended to read as follows:

(1) Fund-raising activities ~~((which meet))~~ meeting the standards of subsection (2) of this section may be reported in accordance with the provisions of this section in lieu of reporting in accordance with RCW 42.17.080 (as recodified by this act).

(2) Standards:

(a) The activity consists of one or more of the following:

(i) ~~((The retail))~~ A sale of goods or services sold at a reasonable approximation of the fair market value of each item or service ~~((sold at the activity));~~ or

(ii) A gambling operation ~~((which))~~ that is licensed, conducted, or operated in accordance with the provisions of chapter 9.46 RCW; or

(iii) A gathering where food and beverages are purchased~~((, where))~~ and the price of admission or the per person charge for the food and beverages is no more than twenty-five dollars; or

(iv) A concert, dance, theater performance, or similar entertainment event ~~((where))~~ and the price of admission is no more than twenty-five dollars; or

(v) An auction or similar sale ~~((where))~~ for which the total fair market value of items donated by any person ~~((for sale))~~ is no more than fifty dollars; and

(b) No person responsible for receiving money at ~~((such))~~ the fund-raising activity knowingly accepts payments from a single person at or from such an activity to the candidate or committee aggregating more than fifty dollars unless the name and address of the person making ~~((such))~~ the payment, together with the amount paid to the candidate or committee, are disclosed in the report filed pursuant to subsection (6) of this section; and

(c) ~~((Such))~~ Any other standards ~~((as shall be))~~ established by rule of the commission to prevent frustration of the purposes of this chapter.

(3) All funds received from a fund-raising activity ~~((which))~~ that conforms with subsection (2) of this section ~~((shall))~~ must be deposited in the depository within five business days of receipt by the treasurer or deputy treasurer ~~((in the depository))~~.

(4) At the time reports are required under RCW 42.17.080 (as recodified by this act), the treasurer or deputy treasurer making the deposit shall file with the commission and the appropriate county elections officer a report of the fund-raising activity which ~~((shall))~~ must contain the following information:

(a) The date of the activity;

(b) A precise description of the fund-raising methods used in the activity; and

(c) The total amount of cash receipts from persons, each of whom paid no more than fifty dollars.

(5) The treasurer or deputy treasurer shall certify the report is correct.

(6) The treasurer shall report pursuant to RCW 42.17.080 and 42.17.090 (as recodified by this act):

(a) The name and address and the amount contributed ~~((of))~~ by each person ~~((who contributes))~~ contributing goods or services with a fair market value of more than fifty dollars to a fund-raising activity reported under subsection (4) of this section~~((:))~~; and

(b) The name and address ~~((of))~~ and the amount paid by each person whose identity can be ascertained, ~~((and the amount paid, from whom were knowingly received payments))~~ who made a contribution to the candidate or committee aggregating more than fifty dollars at or from such a fund-raising activity.

Sec. 408. RCW 42.17.080 and 2008 c 73 s 1 are each amended to read as follows:

(1) In addition to the information required under RCW 42.17.040 and 42.17.050 (as recodified by this act), on the day the treasurer is designated, each candidate or political committee ~~((shall))~~ must file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the treasurer resides, ~~((in addition to any statement of organization required under RCW 42.17.040 or 42.17.050,))~~ a report of all contributions received and expenditures made prior to that date, if any.

(2) ~~((At the following intervals))~~ Each treasurer shall file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the committee maintains its office or headquarters, ~~((and if there is no office or headquarters then))~~ or in the county in which the treasurer resides if there is no office or headquarters, a report containing the information required by RCW 42.17.090 (as recodified by this act) at the following intervals:

(a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held; ~~((and))~~

(b) On the tenth day of the first month after the election; and

(c) On the tenth day of each month in which no other reports are required to be filed under this section ~~((:—PROVIDED, That such report shall only be filed))~~ only if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.

~~((When there is no outstanding debt or obligation, and the campaign fund is closed, and the campaign is concluded in all respects, and in the case of a political committee, the committee has ceased to function and has dissolved, the treasurer shall file a final report. Upon submitting a final report, the duties of the treasurer shall cease and there shall be no obligation to make any further reports.))~~

The report filed twenty-one days before the election shall report all contributions received and expenditures made as of the end of the one business day before the date of the report. The report filed seven days before the election shall report all contributions received and expenditures made as of the end of the one business day before the date of the report. Reports filed on the tenth day of the month shall report all contributions received and expenditures made from the closing date of the last report filed through the last day of the month preceding the date of the current report.

(3) For the period beginning the first day of the fourth month preceding the date ~~((on which))~~ of the special election ~~((is held))~~, or for the period beginning the first day of the fifth month before the date ~~((on which))~~ of the general election ~~((is held))~~, and ending on the date of that special or general election, each Monday the treasurer shall file with the commission and the appropriate county elections officer a report of each bank deposit made during the previous seven calendar days. The report shall contain the name of each person contributing the funds ~~((so deposited))~~ and the amount contributed by each person. However, ~~((contributions of))~~ persons who contribute no more than twenty-five dollars in the aggregate ~~((from any one person may be deposited without identifying the contributor))~~ are not required to be identified in the report. A copy of the report shall be retained by the treasurer for his or her records. In the event of deposits made by a deputy treasurer, the copy shall be forwarded to the treasurer for his or her records. Each report shall be certified as correct by the treasurer or deputy treasurer making the deposit.

(4) If a city requires that candidates or committees for city offices file reports with a city agency, the candidate or treasurer ~~((so filing need not also))~~ complying with the requirement does not need to file the report with the county auditor or elections officer.

(5) The treasurer or candidate shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the eight days immediately preceding the date of the election the books of account shall be kept current within one business day. As specified in the committee's statement of organization filed under RCW 42.17.040 (as recodified by this act), the books of account must be open for public inspection by appointment at the designated place for inspections between 8:00 a.m. and 8:00 p.m. on any day from the eighth day immediately before the election through the day immediately before the election, other than Saturday, Sunday, or a legal holiday. It is a violation of this chapter for a candidate or political committee to refuse to allow and keep an appointment for an inspection to be conducted during these authorized times and days. The appointment must be allowed at an authorized time and day for such inspections that is within twenty-four hours of the time and day that is requested for the inspection.

(6) ~~((The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.~~

~~—(7) All reports filed pursuant to subsection (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.~~

~~—(8))~~ Copies of all reports filed pursuant to this section shall be readily available for public inspection ~~((for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040))~~ by appointment, pursuant to subsection (5) of this section, at the principal headquarters or, if there is no headquarters, at the address of the treasurer or such other place as may be authorized by the commission.

~~((9) After January 1, 2002,))~~ (7) A report that is filed with the commission electronically need not also be filed with the county auditor or elections officer.

~~((10) The commission shall adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports.))~~

(8) The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

(9) All reports filed pursuant to subsection (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.

(10) When there is no outstanding debt or obligation, the campaign fund is closed, and the campaign is concluded in all respects or in the case of a political committee, the committee has ceased to function and has dissolved, the treasurer shall file a final report. Upon submitting a final report, the duties of the treasurer shall cease and there is no obligation to make any further reports.

Sec. 409. RCW 42.17.090 and 2003 c 123 s 1 are each amended to read as follows:

~~((1))~~ Each report required under RCW 42.17.080 (1) and (2) (as recodified by this act) must be certified as correct by the treasurer and the candidate and shall disclose the following:

~~((a))~~ (1) The funds on hand at the beginning of the period;

~~((b))~~ (2) The name and address of each person who has made one or more contributions during the period, together with the money value and date of ~~((such))~~ each contribution~~((s))~~ and the aggregate value of all contributions received from each ~~((such))~~ person during the campaign, or in the case of a continuing political committee, the current calendar year~~((:—PROVIDED, That))~~, with the following exceptions:

(a) Pledges in the aggregate of less than one hundred dollars from any one person need not be reported~~((:—PROVIDED FURTHER, That the))~~;

(b) Income ~~((which))~~ that results from a fund-raising activity conducted in accordance with RCW 42.17.067 (as recodified by this act) may be reported as one lump sum, with the exception of that portion ~~((of such income which was))~~ received from persons whose names and addresses are required to be included in the report required by RCW 42.17.067~~((:—PROVIDED FURTHER, That))~~ (as recodified by this act);

(c) Contributions of no more than twenty-five dollars in the aggregate from any one person during the election campaign may be reported as one lump sum ~~((so long as))~~ if the ~~((campaign))~~ treasurer maintains a separate and private list of the name, address, and amount of each such contributor~~((:—PROVIDED FURTHER, That))~~; and

(d) The money value of contributions of postage shall be the face value of ~~((such))~~ the postage;

~~((e))~~ (3) Each loan, promissory note, or security instrument to be used by or for the benefit of the candidate or political committee made by any person, ~~((together with))~~ including the names and addresses of the lender and each person liable directly, indirectly or contingently and the date and amount of each such loan, promissory note, or security instrument;

~~((d))~~ (4) All other contributions not otherwise listed or exempted;

~~((e))~~ (5) The name and address of each candidate or political committee to which any transfer of funds was made, ~~(together with)~~ including the amounts and dates of ~~((such))~~ the transfers;

~~((f))~~ (6) The name and address of each person to whom an expenditure was made in the aggregate amount of more than fifty dollars during the period covered by this report, ~~(and)~~ the amount, date, and purpose of each ~~((such))~~ expenditure. ~~(—A candidate for state executive or state legislative office or the political committee of such a candidate shall report this information for an expenditure under one of the following categories, whichever is appropriate: (i) Expenditures for the election of the candidate; (ii) expenditures for nonreimbursed public office related expenses; (iii) expenditures required to be reported under (e) of this subsection; or (iv) expenditures of surplus funds and other expenditures. The report of such a candidate or committee shall contain a separate total of expenditures for each category and a total sum of all expenditures. Other candidates and political committees need not report information regarding expenditures under the categories listed in (i) through (iv) of this subsection or under similar such categories unless required to do so by the commission by rule. The report of such an other candidate or committee shall also contain), and the total sum of all expenditures;~~

~~((g))~~ (7) The name and address of each person ~~((to whom any expenditure was made directly or indirectly to compensate the person))~~ directly compensated for soliciting or procuring signatures on an initiative or referendum petition, the amount of ~~((such))~~ the compensation to each ~~((such))~~ person, and the total ~~((of the))~~ expenditures made for this purpose. Such expenditures shall be reported under this subsection ~~((and (g) whether the expenditures are or are not also))~~ in addition to what is required to be reported under ~~((f of this))~~ subsection (6) of this section;

~~((h))~~ (8) The name and address of any person and the amount owed for any debt, obligation, note, unpaid loan, or other liability in the amount of more than two hundred fifty dollars or in the amount of more than fifty dollars that has been outstanding for over thirty days;

~~((i))~~ (9) The surplus or deficit of contributions over expenditures;

~~((j))~~ (10) The disposition made in accordance with RCW 42.17.095 ~~(as recodified by this act)~~ of any surplus funds; and

~~((k) Such)~~ (11) Any other information ~~((as shall be))~~ required by the commission by rule in conformance with the policies and purposes of this chapter.

~~((2) The treasurer and the candidate shall certify the correctness of each report:)~~

Sec. 410. RCW 42.17.3691 and 2000 c 237 s 4 are each amended to read as follows:

(1) ~~((Beginning January 1, 2002, each candidate or political committee that expended twenty five thousand dollars or more in the preceding year or expects to expend twenty five thousand dollars or more in the current year shall file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission under RCW 42.17.369. The commission may make exceptions on a case by case basis for candidates whose authorized committees lack the technological ability to file reports using the electronic alternative provided by the commission.~~

~~—(2) Beginning January 1, 2004,)~~ Each candidate or political committee that expended ten thousand dollars or more in the preceding year or expects to expend ten thousand dollars or more in the current year shall file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission under RCW 42.17.369 ~~(as recodified by this act)~~. The commission may make exceptions on a case-by-case basis for candidates whose authorized committees lack the technological

ability to file reports using the electronic alternative provided by the commission.

~~((3))~~ (2) Failure by a candidate or political committee to comply with this section is a violation of this chapter.

Sec. 411. RCW 42.17.093 and 2006 c 348 s 6 are each amended to read as follows:

(1) An out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 ~~(as recodified by this act)~~ shall report as required in this section when it makes an expenditure supporting or opposing a Washington state candidate or political committee. The committee shall file with the commission a statement disclosing:

(a) Its name and address;

(b) The purposes of the out-of-state committee;

(c) The names, addresses, and titles of its officers or, if it has no officers, the names, addresses, and the titles of its responsible leaders;

(d) The name, office sought, and party affiliation of each candidate in the state of Washington whom the out-of-state committee is supporting or opposing and, if ~~((such))~~ the committee is supporting or opposing the entire ticket of any party, the name of the party;

(e) The ballot proposition supported or opposed in the state of Washington, if any, and whether ~~((such))~~ the committee is in favor of or opposed to ~~((such))~~ that proposition;

(f) The name and address of each person residing in the state of Washington or corporation ~~((which))~~ that has a place of business in the state of Washington who has made one or more contributions in the aggregate of more than twenty-five dollars to the out-of-state committee during the current calendar year, together with the money value and date of ~~((such))~~ the contributions;

(g) The name, address, and employer of each person or corporation residing outside the state of Washington who has made one or more contributions in the aggregate of more than two thousand five hundred fifty dollars to the out-of-state committee during the current calendar year, together with the money value and date of ~~((such))~~ the contributions. Annually, the commission must modify the two thousand five hundred fifty dollar limit in this subsection based on percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the bureau of economic analysis of the federal department of commerce;

(h) The name and address of each person in the state of Washington to whom an expenditure was made by the out-of-state committee with respect to a candidate or political committee in the aggregate amount of more than fifty dollars, the amount, date, and purpose of ~~((such))~~ the expenditure, and the total sum of ~~((such))~~ the expenditures; and

(i) ~~((Such))~~ Any other information as the commission may prescribe by rule in keeping with the policies and purposes of this chapter.

(2) Each statement shall be filed no later than the tenth day of the month following any month in which a contribution or other expenditure reportable under subsection (1) of this section is made. An out-of-state committee incurring an obligation to file additional statements in a calendar year may satisfy the obligation by timely filing reports that supplement previously filed information.

Sec. 412. RCW 42.17.100 and 1995 c 397 s 28 are each amended to read as follows:

(1) For the purposes of this section and RCW 42.17.550 ~~((the term))~~ ~~(as recodified by this act)~~, "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17.060, 42.17.080, or 42.17.090 ~~(as recodified by this act)~~. "Independent expenditure" does not include: An internal political communication primarily limited to the contributors to a political party organization or political action

committee, or the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person.

(2) Within five days after the date of making an independent expenditure that by itself or when added to all other ~~((such))~~ independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a local ballot proposition, the county of residence for the person making the expenditure) an initial report of all independent expenditures made during the campaign ~~((prior to))~~ before and including such date.

(3) At the following intervals each person who is required to file an initial report pursuant to subsection (2) of this section shall file with the commission and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a ballot proposition, the county of residence for the person making the expenditure) a further report of the independent expenditures made since the date of the last report:

(a) On the twenty-first day and the seventh day preceding the date on which the election is held; and

(b) On the tenth day of the first month after the election; and

(c) On the tenth day of each month in which no other reports are required to be filed pursuant to this section. However, the further reports required by this subsection (3) shall only be filed if the reporting person has made an independent expenditure since the date of the last previous report filed.

~~((4))~~ (4) The report filed pursuant to ((paragraph (a) of this)) subsection (3)(a) of this section shall be the final report, and upon submitting such final report the duties of the reporting person shall cease, and there shall be no obligation to make any further reports.

~~((5))~~ (5) All reports filed pursuant to this section shall be certified as correct by the reporting person.

~~((6))~~ (6) Each report required by subsections (2) and (3) of this section shall disclose for the period beginning at the end of the period for the last previous report filed or, in the case of an initial report, beginning at the time of the first independent expenditure, and ending not more than one business day before the date the report is due:

(a) The name and address of the person filing the report;

(b) The name and address of each person to whom an independent expenditure was made in the aggregate amount of more than fifty dollars, and the amount, date, and purpose of each ~~((such))~~ expenditure. If no reasonable estimate of the monetary value of a particular independent expenditure is practicable, it is sufficient to report instead a precise description of services, property, or rights furnished through the expenditure, and where appropriate, to attach a copy of the item produced or distributed by the expenditure;

(c) The total sum of all independent expenditures made during the campaign to date; and

(d) ~~((Such))~~ Any other information ((as shall be required by)) the commission may require by rule ((in conformance with the policies and purposes of this chapter)).

Sec. 413. RCW 42.17.103 and 2005 c 445 s 7 are each amended to read as follows:

(1) The sponsor of political advertising who, within twenty-one days of an election, publishes, mails, or otherwise presents to the public political advertising supporting or opposing a candidate or ballot proposition that qualifies as an independent expenditure with a fair market value of one thousand dollars or more shall deliver, either electronically or in written form, a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public.

(2) If a sponsor is required to file a special report under this section, the sponsor shall also deliver to the commission within the delivery period established in subsection (1) of this section a special report for each subsequent independent expenditure of any size supporting or opposing the same candidate who was the subject of the previous independent expenditure, supporting or opposing that candidate's opponent, or supporting or opposing the same ballot proposition that was the subject of the previous independent expenditure.

(3) The special report must include ~~((at least))~~:

(a) The name and address of the person making the expenditure;

(b) The name and address of the person to whom the expenditure was made;

(c) A detailed description of the expenditure;

(d) The date the expenditure was made and the date the political advertising was first published or otherwise presented to the public;

(e) The amount of the expenditure;

(f) The name of the candidate supported or opposed by the expenditure, the office being sought by the candidate, and whether the expenditure supports or opposes the candidate; or the name of the ballot proposition supported or opposed by the expenditure and whether the expenditure supports or opposes the ballot proposition; and

(g) Any other information the commission may require by rule.

(4) All persons required to report under RCW 42.17.065, 42.17.080, 42.17.090, 42.17.100, and 42.17.565 (as recodified by this act) are subject to the requirements of this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100 (as recodified by this act).

(5) The sponsor of independent expenditures supporting a candidate or opposing that candidate's opponent required to report under this section shall file with each required report an affidavit or declaration of the person responsible for making the independent expenditure that the expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, the candidate, the candidate's authorized committee, or the candidate's agent, or with the encouragement or approval of the candidate, the candidate's authorized committee, or the candidate's agent.

Sec. 414. RCW 42.17.105 and 2001 c 54 s 2 are each amended to read as follows:

(1) ~~((Campaign))~~ Treasurers shall prepare and deliver to the commission a special report ((regarding any)) when a contribution or aggregate of contributions ((which is)) totals one thousand dollars or more((s)), is from a single person or entity((s)), and is received during a special reporting period.

~~((Any))~~ (2) A political committee ((making)) shall prepare and deliver to the commission a special report when it makes a contribution or an aggregate of contributions to a single entity ((which is)) that totals one thousand dollars or more ((shall also prepare and deliver to the commission the special report if the contribution or aggregate of contributions is made)) during a special reporting period.

~~((For the purposes of subsections (1) through (7) of this section:~~

~~— (a) Each of the following intervals is a) (3) An aggregate of contributions includes only those contributions made to or received from a single entity during any one special reporting period. Any subsequent contribution of any size made to or received from the~~

same person or entity during the special reporting period must also be reported.

(4) Special reporting periods, for purposes of this section, include:

(a) The ~~((interval beginning after the))~~ period ~~((covered by))~~ beginning on the day after the last report required by RCW 42.17.080 and 42.17.090 ~~(as recodified by this act)~~ to be filed before a primary and concluding on the end of the day before that primary; ~~((and (ii)))~~

(b) The ~~((interval composed of the))~~ period twenty-one days preceding a general election; and

~~((b))~~ (c) An aggregate of contributions includes only those contributions received from a single entity during any one special reporting period or made by the contributing political committee to a single entity during any one special reporting period.

~~((2))~~ (5) If a campaign treasurer files a special report under this section for one or more contributions received from a single entity during a special reporting period, the treasurer shall also file a special report under this section for each subsequent contribution of any size which is received from that entity during the special reporting period. If a political committee files a special report under this section for a contribution or contributions made to a single entity during a special reporting period, the political committee shall also file a special report for each subsequent contribution of any size which is made to that entity during the special reporting period.

~~((3) Except as provided in subsection (4) of this section, the))~~ (6) Special reports required by this section shall be delivered electronically or in written form, including but not limited to mailgram, telegram, or nightletter. The special report may be transmitted orally by telephone to the commission if the written form of the report is postmarked and mailed to the commission or the electronic filing is transferred to the commission within the delivery periods established in (a) and (b) of this subsection.

(a) The special report required of a contribution recipient ~~((by))~~ under subsection (1) of this section shall be delivered to the commission within forty-eight hours of the time, or on the first working day after: The contribution of one thousand dollars or more is received by the candidate or treasurer; the aggregate received by the candidate or treasurer first equals one thousand dollars or more; or ~~((the))~~ any subsequent contribution ~~((that must be reported under subsection (2) of this section))~~ from the same source is received by the candidate or treasurer.

(b) The special report required of a contributor ~~((by))~~ under subsection ~~((4))~~ (2) of this section or RCW 42.17.175 ~~(as recodified by this act)~~ shall be delivered to the commission, and the candidate or political committee to whom the contribution or contributions are made, within twenty-four hours of the time, or on the first working day after: The contribution is made; the aggregate of contributions made first equals one thousand dollars or more; or ~~((the))~~ any subsequent contribution ~~((that must be reported under subsection (2) of this section))~~ to the same person or entity is made.

~~((4) The special report may be transmitted orally by telephone to the commission to satisfy the delivery period required by subsection (3) of this section if the written form of the report is also mailed to the commission and postmarked within the delivery period established in subsection (3) of this section or the file transfer date of the electronic filing is within the delivery period established in subsection (3) of this section.~~

~~((5))~~ (7) The special report shall include ~~((at least))~~:

- (a) The amount of the contribution or contributions;
- (b) The date or dates of receipt;
- (c) The name and address of the donor;
- (d) The name and address of the recipient; and
- (e) Any other information the commission may by rule require.

~~((6))~~ (8) Contributions reported under this section shall also be reported as required by other provisions of this chapter.

~~((7))~~ (9) The commission shall prepare daily a summary of the special reports made under this section and RCW 42.17.175 ~~(as recodified by this act).~~

~~((8) It is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17.090 in the aggregate exceeding fifty thousand dollars for any campaign for statewide office or exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty-one days of a general election. This subsection does not apply to contributions made by, or accepted from, a bona fide political party as defined in this chapter, excluding the county central committee or legislative district committee.~~

~~((9))~~ (10) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17.135 ~~(as recodified by this act).~~

Sec. 415. RCW 42.17.550 and 1993 c 2 s 23 are each amended to read as follows:

A person or entity, other than a party organization making an independent expenditure ~~((by))~~ that consists of mailing one thousand or more identical or nearly identical cumulative pieces of political advertising in a single calendar year shall ~~((s))~~ report that activity. The report must be made within two working days after the date of the mailing, ~~((file a statement))~~ disclosing the number of pieces in the mailing and an example of the mailed political advertising ~~((with))~~. The report must be sent to the election officer of the county ~~((or))~~ of residence ~~((for))~~ of the candidate supported or opposed by the independent campaign expenditure ~~((or))~~. In the case of an expenditure made in support of or in opposition to a ballot proposition, the report must be sent to the county of residence ~~((for))~~ of the person making the expenditure.

Sec. 416. RCW 42.17.135 and 1989 c 280 s 13 are each amended to read as follows:

A ~~((candidate or))~~ political committee receiving a contribution earmarked for the benefit of ~~((another))~~ a candidate or another political committee shall:

(1) Report the contribution as required in RCW 42.17.080 and 42.17.090 ~~(as recodified by this act)~~;

(2) Complete a report, entitled "Earmarked contributions," on a form prescribed by the commission ~~((by rule, which))~~ that identifies the name and address of the person who made the contribution, the candidate or political committee for whose benefit the contribution is earmarked, the amount of the contribution, and the date ~~((on which))~~ that the contribution was received; and

(3) ~~((Notify))~~ Mail or deliver to the commission and the candidate or political committee ~~((for whose benefit))~~ benefiting from the contribution ~~((is earmarked regarding the receipt of the contribution by mailing or delivering to the commission and to the candidate or committee))~~ a copy of the "Earmarked contributions" report within two working days of receipt of the contribution. ~~((Such notice shall be given within two working days of receipt of the contribution.))~~

(4) A candidate or political committee receiving notification of an earmarked contribution under subsection (3) of this section shall report the contribution, once notification of the contribution is received by the candidate or committee, in the same manner as ~~((the receipt of))~~ any other contribution ~~((is disclosed in reports))~~, as required by RCW 42.17.080 and 42.17.090 ~~(as recodified by this act).~~

PART 5

POLITICAL ADVERTISING AND ELECTIONEERING COMMUNICATIONS

Sec. 501. RCW 42.17.561 and 2005 c 445 s 1 are each amended to read as follows:

(1) The legislature finds that:

~~((1))~~ (a) Timely disclosure to voters of the identity and sources of funding for electioneering communications is vitally important to the integrity of state, local, and judicial elections.

~~((2))~~ (b) Electioneering communications that identify political candidates for state, local, or judicial office and that are distributed sixty days before an election for those offices are intended to influence voters and the outcome of those elections.

~~((3))~~ (c) The state has a compelling interest in providing voters information about electioneering communications in political campaigns concerning candidates for state, local, or judicial office so that voters can be fully informed as to the: ~~((4))~~ (i) Source of support or opposition to those candidates; and ~~((5))~~ (ii) identity of persons attempting to influence the outcome of state, local, and judicial candidate elections.

~~((6))~~ (d) Nondisclosure of financial information about advertising that masquerades as relating only to issues and not to candidate campaigns fosters corruption or the appearance of corruption. These consequences can be substantially avoided by full disclosure of the identity and funding of those persons paying for such advertising.

~~((7))~~ (e) The United States supreme court held in *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003) that speakers seeking to influence elections do not possess an inviolable free speech right to engage in electioneering communications regarding elections, including when issue advocacy is the functional equivalent of express advocacy. Therefore, such election campaign communications can be regulated and the source of funding disclosed.

~~((8))~~ (f) The state ~~(also)~~ has a sufficiently compelling interest in preventing corruption in political campaigns to justify and restore contribution limits and restrictions on the use of soft money in RCW 42.17.640 (as recodified by this act). Those interests include restoring restrictions on the use of such funds for electioneering communications, as well as the laws preventing circumvention of those limits and restrictions.

(2) Based upon the findings in this section, chapter 445, Laws of 2005 is narrowly tailored to accomplish the following and is intended to:

(a) Improve the disclosure to voters of information concerning persons and entities seeking to influence state, local, and judicial campaigns through reasonable and effective mechanisms, including improving disclosure of the source, identity, and funding of electioneering communications concerning state, local, and judicial candidate campaigns;

(b) Regulate electioneering communications that mention state, local, and judicial candidates and that are broadcast, mailed, erected, distributed, or otherwise published right before the election so that the public knows who is paying for such communications;

(c) Reenact and amend the contribution limits in RCW 42.17.640 (7) and (15) (as recodified by this act) and the restrictions on the use of soft money, including as applied to electioneering communications, as those limits and restrictions were in effect following the passage of chapter 2, Laws of 1993 (Initiative Measure No. 134) and before the state supreme court decision in *Washington State Republican Party v. Washington State Public Disclosure Commission*, 141 Wn.2d 245, 4 P.3d 808 (2000). The commission is authorized to fully restore the implementation of the limits and restrictions of RCW 42.17.640 (7) and (15) (as recodified by this act) in light of *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003). The United States supreme court upheld the disclosure and regulation of electioneering communications in political campaigns, including but not limited to issue advocacy that is the functional equivalent of express advocacy; and

(d) Authorize the commission to adopt rules to implement chapter 445, Laws of 2005.

Sec. 502. RCW 42.17.565 and 2005 c 445 s 3 are each amended to read as follows:

(1) A payment for or promise to pay for any electioneering communication shall be reported to the commission by the sponsor on forms the commission shall develop by rule to include, at a minimum, the following information:

(a) Name and address of the sponsor;

(b) Source of funds for the communication, including:

(i) General treasury funds. The name and address of businesses, unions, groups, associations, or other organizations using general treasury funds for the communication, however, if a business, union, group, association, or other organization undertakes a special solicitation of its members or other persons for an electioneering communication, or it otherwise receives funds for an electioneering communication, that entity shall report pursuant to (b)(ii) of this subsection;

(ii) Special solicitations and other funds. The name, address, and, for individuals, occupation and employer, of a person whose funds were used to pay for the electioneering communication, along with the amount, if such funds from the person have exceeded two hundred fifty dollars in the aggregate for the electioneering communication; and

(iii) Any other source information required or exempt by the commission by rule;

(c) Name and address of the person to whom an electioneering communication related expenditure was made;

(d) A detailed description of each expenditure of more than one hundred dollars;

(e) The date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published;

(f) The amount of the expenditure;

(g) The name of each candidate clearly identified in the electioneering communication, the office being sought by each candidate, and the amount of the expenditure attributable to each candidate; and

(h) Any other information the commission may require or exempt by rule.

(2) Electioneering communications shall be reported as follows: The sponsor of an electioneering communication shall report to the commission within twenty-four hours of, or on the first working day after, the date the electioneering communication is broadcast, transmitted, mailed, erected, distributed, or otherwise published.

(3) Electioneering communications shall be reported electronically by the sponsor using software provided or approved by the commission. The commission may make exceptions on a case-by-case basis for a sponsor who lacks the technological ability to file reports using the electronic means provided or approved by the commission.

(4) All persons required to report under RCW 42.17.065, 42.17.080, 42.17.090, and 42.17.100 (as recodified by this act) are subject to the requirements of this section, although the commission may determine by rule that persons filing according to those sections may be exempt from reporting some of the information otherwise required by this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100 and 42.17.103 (as recodified by this act).

(5) Failure of any sponsor to report electronically under this section shall be a violation of this chapter.

Sec. 503. RCW 42.17.570 and 2005 c 445 s 4 are each amended to read as follows:

(1) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents is a contribution to the candidate.

(2) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a political committee or its agents is a contribution to the political committee.

(3) If an electioneering communication is not a contribution pursuant to subsection (1) or (2) of this section, the sponsor shall file an affidavit or declaration so stating at the time the sponsor is required to report the electioneering communication expense under RCW 42.17.565 (as recodified by this act).

Sec. 504. RCW 42.17.575 and 2005 c 445 s 5 are each amended to read as follows:

(1) The sponsor of an electioneering communication shall preserve all financial records relating to the communication, including books of account, bills, receipts, contributor information, and ledgers, for not less than five calendar years following the year in which the communication was broadcast, transmitted, mailed, erected, or otherwise published.

(2) All reports filed under RCW 42.17.565 (as recodified by this act) shall be certified as correct by the sponsor. If the sponsor is an individual using his or her own funds to pay for the communication, the certification shall be signed by the individual. If the sponsor is a political committee, the certification shall be signed by the committee treasurer. If the sponsor is another entity, the certification shall be signed by the individual responsible for authorizing the expenditure on the entity's behalf.

Sec. 505. RCW 42.17.510 and 2005 c 445 s 9 are each amended to read as follows:

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising.

(2) In addition to the ~~((materials))~~ information required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure or an electioneering communication by a person or entity other than a bona fide political party ~~((organization, and all electioneering communications,))~~ must include as part of the communication:

~~((a) The ((following)) statement ((as part of the communication "NOTICE TO VOTERS (Required by law): This advertisement is not authorized or approved by any candidate))): "No candidate authorized this ad. It is paid for by (name, address, city, state)((:))";~~

~~((b) If the ((advertisement undertaken as an independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included)) sponsor is a political committee, the statement: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement or communication; and~~

~~((c) If the sponsor is a political committee established, maintained, or controlled directly, or indirectly through the formation of one or more political committees, by an individual, corporation, union, association, or other entity, the full name of that individual or entity.~~

(3) The ~~((statements and listings of contributors))~~ information required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written advertisement or communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written advertisement or

communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process; and

(c) Be set apart from any other printed matter.

(4) In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement must either be clearly spoken, or appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height, and have a reasonable color contrast with the background: "No candidate authorized this ad. Paid for by (name, city, state)." If the advertisement or communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(5) The following statement shall be clearly spoken in an independent expenditure or electioneering communication transmitted by a method that does not include a visual image: "No candidate authorized this ad. Paid for by (name, city, state)." If the independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following statement must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(6) Political yard signs are exempt from the requirement of subsections (1) and (2) of this section that the name and address of the sponsor of political advertising be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of subsections (1) and (2) of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(7) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet.

Sec. 506. RCW 42.17.520 and 1984 c 216 s 2 are each amended to read as follows:

At least one picture of the candidate used in any political advertising shall have been taken within the last five years and shall be no smaller than ~~((the largest))~~ any other picture of the same candidate used in the same advertisement.

Sec. 507. RCW 42.17.540 and 1984 c 216 s 4 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the responsibility for compliance with RCW 42.17.510 through 42.17.530 (as recodified by this act) shall ~~((rest))~~ be with the sponsor of the political advertising and not with the broadcasting station or other medium.

(2) If a broadcasting station or other medium changes the content of a political advertisement, the station or medium shall be responsible for any failure of the advertisement to comply with RCW 42.17.510 through 42.17.530 (as recodified by this act) that results from that change.

Sec. 508. RCW 42.17.110 and 2005 c 445 s 8 are each amended to read as follows:

(1) Each commercial advertiser who has accepted or provided political advertising or electioneering communications during the election campaign shall maintain documents and books of account

that shall be open for public inspection during normal business hours during the campaign and for a period of no less than three years after the date of the applicable election(~~(-during normal business hours,)~~). The documents and books of account ((which)) shall specify:

- (a) The names and addresses of persons from whom it accepted political advertising or electioneering communications;
- (b) The exact nature and extent of the services rendered; and
- (c) The ~~((consideration))~~ total cost and the manner of ~~((paying that consideration for such))~~ payment for the services.

(2) At the request of the commission, each commercial advertiser ((which must)) required to comply with subsection (1) of this section shall deliver to the commission(~~(-upon its request,))~~ copies of ~~((such))~~ the information ((as)) that must be maintained and be open for public inspection pursuant to subsection (1) of this section.

PART 6

CAMPAIGN CONTRIBUTION LIMITS AND OTHER RESTRICTIONS

Sec. 601. RCW 42.17.610 and 1993 c 2 s 1 are each amended to read as follows:

(1) The people of the state of Washington find and declare that:

~~((1))~~ (a) The financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates.

~~((2))~~ (b) Rapidly increasing political campaign costs have led many candidates to raise larger percentages of money from special interests with a specific financial stake in matters before state government. This has caused the public perception that decisions of elected officials are being improperly influenced by monetary contributions.

~~((3))~~ (c) Candidates are raising less money in small contributions from individuals and more money from special interests. This has created the public perception that individuals have an insignificant role to play in the political process.

(2) By limiting campaign contributions, the people intend to:

(a) Ensure that individuals and interest groups have fair and equal opportunity to influence elective and governmental processes;

(b) Reduce the influence of large organizational contributors; and

(c) Restore public trust in governmental institutions and the electoral process.

Sec. 602. RCW 42.17.640 and 2006 c 348 s 1 are each amended to read as follows:

(1) The contribution limits in this section apply to:

(a) Candidates for ~~((state))~~ legislative office;

(b) Candidates for state office other than ~~((state))~~ legislative office;

(c) Candidates for county office in a county that has over two hundred thousand registered voters;

(d) Candidates for special purpose district office if that district is authorized to provide freight and passenger transfer and terminal facilities and that district has over two hundred thousand registered voters;

(e) Persons holding an office in (a) through (d) of this subsection against whom recall charges have been filed or to a political committee having the expectation of making expenditures in support of the recall of a person holding the office;

(f) Caucus political committees;

(g) Bona fide political parties.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a ~~((state))~~ legislative office or county office that in the aggregate exceed ~~((seven))~~ eight hundred dollars or to a candidate for a public office in a special purpose district or a state office other than a ~~((state))~~ legislative office that in the aggregate exceed one thousand ~~((four))~~ six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions to candidates subject to the limits in this section made with respect to a primary

may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions to candidates subject to the limits in this section made with respect to a general election may not be made after the final day of the applicable election cycle.

(3) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official, a county official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, county official, or public official in a special purpose district during a recall campaign that in the aggregate exceed ~~((seven))~~ eight hundred dollars if for a ~~((state))~~ legislative office or county office or one thousand ~~((four))~~ six hundred dollars if for a special purpose district office or a state office other than a ~~((state))~~ legislative office.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) ~~((seventy))~~ eighty cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ~~((thirty-five))~~ forty cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(5)(a) Notwithstanding subsection (3) of this section, no bona fide political party or caucus political committee may make contributions to a state official, county official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, county official, or a public official in a special purpose district during a recall campaign that in the aggregate exceed (i) ~~((seventy))~~ eighty cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No official holding an office specified in subsection (1) of this section against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of the official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(6) For purposes of determining contribution limits under subsections (4) and (5) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(7) Notwithstanding subsections (2) through (5) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed ~~((seven))~~ eight hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed ~~((three))~~ four thousand ~~((five hundred))~~ dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(8) For the purposes of RCW 42.17.640 through 42.17.790 (as recodified by this act), a contribution to the authorized political committee of a candidate or of an official specified in subsection (1) of this section against whom recall charges have been filed is considered to be a contribution to the candidate or official.

(9) A contribution received within the twelve-month period after a recall election concerning an office specified in subsection (1) of this section is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(10) The contributions allowed by subsection (3) of this section are in addition to those allowed by subsection (2) of this section, and the contributions allowed by subsection (5) of this section are in addition to those allowed by subsection (4) of this section.

(11) RCW 42.17.640 through 42.17.790 (as recodified by this act) apply to a special election conducted to fill a vacancy in an office specified in subsection (1) of this section. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(12) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a state office candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(13) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate specified in subsection (1) of this section, or an official specified in subsection (1) of this section against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of an official specified in subsection (1) of this section if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the official.

(14) No person may accept contributions that exceed the contribution limitations provided in this section.

(15) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; ~~((or))~~

(b) An expenditure by a political committee for its own internal organization or fund-raising without direct association with individual candidates; or

(c) An expenditure or contribution for independent expenditures as defined in RCW 42.17.020 or electioneering communications as defined in RCW 42.17.020.

Sec. 603. RCW 42.17.645 and 2006 c 348 s 2 are each amended to read as follows:

(1) No person may make contributions to a candidate for judicial office that in the aggregate exceed one thousand ~~((four))~~ six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions made with respect to a general election may not be made after the final day of the applicable election cycle.

(2) This section through RCW 42.17.790 (as recodified by this act) apply to a special election conducted to fill a vacancy in an office. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy will not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(3) No person may accept contributions that exceed the contribution limitations provided in this section.

(4) The dollar limits in this section must be adjusted according to RCW 42.17.690 (as recodified by this act).

NEW SECTION. Sec. 604. REPORTABLE CONTRIBUTIONS--PREELECTION LIMITATIONS. (1) It is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17.090 (as recodified by this act) in the aggregate exceeding fifty thousand dollars for any campaign for statewide office or exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty-one days of a general election. This subsection does not apply to contributions made by, or accepted from, a bona fide political party as defined in this chapter, excluding the county central committee or legislative district committee.

(2) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17.135 (as recodified by this act).

Sec. 605. RCW 42.17.070 and 2007 c 358 s 3 are each amended to read as follows:

No expenditures may be made or incurred by any candidate or political committee ~~((except on the authority of))~~ unless authorized by the candidate or the person or persons named on the candidate's or committee's registration form ~~((and))~~, A record of all such expenditures shall be maintained by the treasurer.

No expenditure of more than fifty dollars may be made in currency unless a receipt, signed by the recipient and by the candidate or treasurer, is prepared and made a part of the campaign's or political committee's financial records.

Sec. 606. RCW 42.17.095 and 2005 c 467 s 1 are each amended to read as follows:

The surplus funds of a candidate ~~((;))~~ or ~~((of a political committee supporting or opposing a candidate;))~~ a candidate's authorized committee may only be disposed of in any one or more of the following ways:

(1) Return the surplus to a contributor in an amount not to exceed that contributor's original contribution;

(2) ~~((Transfer the surplus to the candidate's personal account as reimbursement))~~ Using surplus, reimburse the candidate for lost earnings incurred as a result of that candidate's election campaign.

~~((Such))~~ Lost earnings shall be verifiable as unpaid salary or, when the candidate is not salaried, as an amount not to exceed income received by the candidate for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the candidate or the candidate's ~~((political))~~ authorized committee. The committee shall ~~((include))~~ maintain a copy of ~~((such))~~ this record ~~((when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090))~~ in accordance with RCW 42.17.080(6) (as recodified by this act);

(3) Transfer the surplus without limit to a political party or to a caucus political committee;

(4) Donate the surplus to a charitable organization registered in accordance with chapter 19.09 RCW;

(5) Transmit the surplus to the state treasurer for deposit in the general fund, the ~~((oral history))~~ Washington state legacy project, state library, and archives account under RCW 43.07.380, or the legislative international trade account under RCW ~~((44.04.270))~~ 43.15.050, as specified by the candidate or political committee; or

(6) Hold the surplus in the ~~((campaign))~~ depository or depositories designated in accordance with ~~((RCW 42.17.050))~~ section 404 of this act for possible use in a future election campaign for the same office last sought by the candidate and report any such disposition in accordance with RCW 42.17.090~~((—PROVIDED, That))~~ (as recodified by this act). If the candidate subsequently announces or publicly files for office, the appropriate information ~~((as appropriate is))~~ must be reported to the commission in accordance with RCW 42.17.040 through 42.17.090 (as recodified by this act). If a subsequent office is not sought the surplus held shall be disposed of in accordance with the requirements of this section.

(7) Hold the surplus campaign funds in a separate account for nonreimbursed public office-related expenses or as provided in this section, and report any such disposition in accordance with RCW 42.17.090 (as recodified by this act). The separate account required under this subsection shall not be used for deposits of campaign funds that are not surplus.

(8) No candidate or authorized committee may transfer funds to any other candidate or other political committee.

The disposal of surplus funds under this section shall not be considered a contribution for purposes of this chapter.

NEW SECTION. Sec. 607. CANDIDATES' POLITICAL COMMITTEES-- LIMITATIONS. A candidate may not knowingly establish, use, direct, or control more than one political committee for the purpose of supporting that candidate during a particular election campaign. This does not prohibit: (1) In addition to a candidate's having his or her own political committee, the candidate's participation in a political committee established to support a slate of candidates that includes the candidate; or (2) joint fund-raising efforts by candidates when a separate political committee is established for that purpose and all contributions are disbursed to and accounted for on a pro rata basis by the benefiting candidates.

Sec. 608. RCW 42.17.125 and 1995 c 397 s 29 are each amended to read as follows:

Contributions received and reported in accordance with RCW 42.17.060 through 42.17.090 (as recodified by this act) may only be ~~((transferred))~~ paid to ~~((the personal account of))~~ a candidate, or ~~((of))~~ a treasurer or other individual or expended for such individual's personal use under the following circumstances:

(1) Reimbursement for or ~~((loans))~~ payments to cover lost earnings incurred as a result of campaigning or services performed for the political committee. ~~((Such))~~ Lost earnings shall be verifiable as unpaid salary, or when the individual is not salaried, as an amount not to exceed income received by the individual for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record ~~((thereof))~~ shall be maintained by the ~~((individual))~~ candidate or the ~~((individual's~~

~~political))~~ candidate's authorized committee in accordance with RCW 42.17.080 (as recodified by this act). ~~((The political committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090.))~~

(2) Reimbursement for direct out-of-pocket election campaign and postelection campaign related expenses made by the individual. To receive reimbursement from the political committee, the individual shall provide the political committee with written documentation as to the amount, date, and description of each expense, and the political committee shall include a copy of such information when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090 (as recodified by this act).

(3) Repayment of loans made by the individual to political committees~~((, which repayment))~~ shall be reported pursuant to RCW 42.17.090 (as recodified by this act). However, contributions may not be used to reimburse a candidate for loans totaling more than ~~((three))~~ four thousand seven hundred dollars made by the candidate to the candidate's own ~~((political))~~ authorized committee ~~((or campaign))~~.

Sec. 609. RCW 42.17.660 and 2005 c 445 s 12 are each amended to read as follows:

For purposes of this chapter:

(1) A contribution by a political committee with funds that have all been contributed by one person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(2) Two or more entities are treated as a single entity if one of the two or more entities is a subsidiary, branch, or department of a corporation that is participating in an election campaign or making contributions, or a local unit or branch of a trade association, labor union, or collective bargaining association that is participating in an election campaign or making contributions. All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained, or controlled by a trade association, labor union, collective bargaining organization, or the local unit of a trade association, labor union, or collective bargaining organization are considered made by the trade association, labor union, collective bargaining organization, or local unit of a trade association, labor union, or collective bargaining organization.

(3) The commission shall adopt rules to carry out this section and is not subject to the time restrictions of RCW 42.17.370(1) (as recodified by this act).

Sec. 610. RCW 42.17.720 and 1995 c 397 s 22 are each amended to read as follows:

(1) A loan is considered to be a contribution from the lender and any guarantor of the loan and is subject to the contribution limitations of this chapter. The full amount of the loan shall be attributed to the lender and to each guarantor.

(2) A loan to a candidate for public office or the candidate's ~~((political))~~ authorized committee must be by written agreement.

(3) The proceeds of a loan made to a candidate for public office:

(a) By a commercial lending institution;

(b) Made in the regular course of business; and

(c) On the same terms ordinarily available to members of the public, are not subject to the contribution limits of this chapter.

Sec. 611. RCW 42.17.740 and 1995 c 397 s 23 are each amended to read as follows:

(1) A person may not make a contribution of more than ~~((fifty))~~ eighty dollars, other than an in-kind contribution, except by a written instrument containing the name of the donor and the name of the payee.

(2) A political committee may not make a contribution, other than in-kind, except by a written instrument containing the name of the donor and the name of the payee.

Sec. 612. RCW 42.17.790 and 1995 c 397 s 27 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a candidate for public office or the candidate's ~~((political))~~ authorized committee may not use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate ~~((for public office))~~ or the candidate's ~~((political))~~ authorized committee to further the candidacy of the individual for an office other than the office designated on the statement of organization. A contribution solicited for or received on behalf of the candidate ~~((for public office))~~ is considered solicited or received for the candidacy for which the individual is then a candidate if the contribution is solicited or received before the general election(s) for which the candidate ~~((for public office))~~ is a nominee or is unopposed.

(2) With the written approval of the contributor, a candidate ~~((for public office))~~ or the candidate's ~~((political))~~ authorized committee may use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate ~~((for public office))~~ or the candidate's ~~((political))~~ authorized committee from that contributor to further the candidacy of the individual for an office other than the office designated on the statement of organization. If the contributor does not approve the use of his or her contribution to further the candidacy of the individual for an office other than the office designated on the statement of organization at the time of the contribution, the contribution must be considered surplus funds and disposed of in accordance with RCW 42.17.095 (as recodified by this act).

Sec. 613. RCW 42.17.680 and 2002 c 156 s 1 are each amended to read as follows:

(1) No employer or labor organization may increase the salary of an officer or employee, or ~~((give an emolument to))~~ compensate an officer, employee, or other person or entity, with the intention that the increase in salary, or the ~~((emolument))~~ compensation, or a part of it, be contributed or spent to support or oppose a candidate, state official against whom recall charges have been filed, political party, or political committee.

(2) No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee. At least annually, an employee from whom wages or salary are withheld under subsection (3) of this section shall be notified of the provisions of this subsection.

(3) No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. The request must be made on a form prescribed by the commission informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section. The employee may revoke the request at any time. At least annually, the employee shall be notified about the right to revoke the request.

(4) Each person or entity who withholds contributions under subsection (3) of this section shall maintain open for public inspection for a period of no less than three years, during normal business hours, documents and books of accounts that shall include a copy of each employee's request, the amounts and dates funds were actually withheld, and the amounts and dates funds were transferred to a political committee. Copies of such information shall be delivered to the commission upon request.

PART 7

PUBLIC OFFICIALS', EMPLOYEES', AND AGENCIES' CAMPAIGN

RESTRICTIONS, PROHIBITIONS, AND REPORTING

Sec. 701. RCW 42.17.130 and 2006 c 215 s 2 are each amended to read as follows:

No elective official nor any employee of his ~~((for her))~~ or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

(4) This section does not apply to any person who is a state officer or state employee as defined in RCW 42.52.010.

Sec. 702. RCW 42.17.245 and 2005 c 274 s 282 are each amended to read as follows:

After January 1st and before April 15th of each calendar year, the state treasurer, each county, public utility district, and port district treasurer, and each treasurer of an incorporated city or town whose population exceeds one thousand shall file with the commission:

(1) A statement under oath that no public funds under that treasurer's control were invested in any institution where the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest; or

(2) A report disclosing for the previous calendar year: (a) The name and address of each financial institution in which the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest which holds or has held during the reporting period public accounts of the governmental entity for which the treasurer is responsible; (b) the aggregate sum of time and demand deposits held in each such financial institution on December 31; and (c) the highest balance held at any time during such reporting period ~~((= PROVIDED, That))~~. The state treasurer shall disclose the highest balance information only upon a public records request under chapter 42.56 RCW. The statement or report required by this section shall be filed either with the statement required under RCW 42.17.240 (as recodified by this act) or separately.

NEW SECTION. Sec. 703. No state-elected official or municipal officer may speak or appear in a public service announcement that is broadcast, shown, or distributed in any form whatsoever during the period beginning January 1st and continuing through the general election if that official or officer is a candidate. If the official or officer does not control the broadcast, showing, or distribution of a public service announcement in which he or she speaks or appears, then the official or officer shall contractually limit

the use of the public service announcement to be consistent with this section prior to participating in the public service announcement. This section does not apply to public service announcements that are part of the regular duties of the office that only mention or visually display the office or office seal or logo and do not mention or visually display the name of the official or officer in the announcement.

PART 8

LOBBYING DISCLOSURE AND RESTRICTIONS

Sec. 801. RCW 42.17.150 and 1987 c 201 s 1 are each amended to read as follows:

(1) Before (~~doing any~~) lobbying, or within thirty days after being employed as a lobbyist, whichever occurs first, a lobbyist shall register by filing with the commission a lobbyist registration statement, in such detail as the commission shall prescribe, (~~showing~~) that includes the following information:

(a) (~~His~~) The lobbyist's name, permanent business address, and any temporary residential and business addresses in Thurston county during the legislative session;

(b) The name, address and occupation or business of the lobbyist's employer;

(c) The duration of (~~his~~) the lobbyist's employment;

(d) (~~His~~) The compensation to be received for lobbying (~~or how much he is~~), the amount to be paid for expenses, and what expenses are to be reimbursed;

(e) Whether the (~~person from whom he receives said compensation employs him~~) lobbyist is employed solely as a lobbyist or whether (~~he~~) the lobbyist is a regular employee performing services for his or her employer which include but are not limited to the influencing of legislation;

(f) The general subject or subjects (~~of his legislative interest~~) to be lobbied;

(g) A written authorization from each of the lobbyist's employers confirming such employment;

(h) The name and address of the person who will have custody of the accounts, bills, receipts, books, papers, and documents required to be kept under this chapter;

(i) If the lobbyist's employer is an entity (including, but not limited to, business and trade associations) whose members include, or which as a representative entity undertakes lobbying activities for, businesses, groups, associations, or organizations, the name and address of each member of such entity or person represented by such entity whose fees, dues, payments, or other consideration paid to such entity during either of the prior two years have exceeded five hundred dollars or who is obligated to or has agreed to pay fees, dues, payments, or other consideration exceeding five hundred dollars to such entity during the current year.

(2) Any lobbyist who receives or is to receive compensation from more than one person for (~~his services as a lobbyist~~) lobbying shall file a separate notice of representation (~~with respect to~~) for each (~~such~~) person (~~or except that where a lobbyist whose fee for acting as such in respect to the same legislation or type of legislation is, or is to be, paid or contributed to by more than one person then such lobbyist may file a single statement, in which he shall detail the name, business address and occupation of each person so paying or contributing, and the amount of the respective payments or contributions made by each such person~~). However, if two or more persons are jointly paying or contributing to the payment of the lobbyist, the lobbyist may file a single statement detailing the name, business address, and occupation of each person paying or contributing and the respective amounts to be paid or contributed.

(3) Whenever a change, modification, or termination of the lobbyist's employment occurs, the lobbyist shall (~~or~~) file with the commission an amended registration statement within one week of (~~such~~) the change, modification, or termination (~~or furnish full information regarding the same by filing with the commission an amended registration statement~~).

(4) Each registered lobbyist (~~who has registered~~) shall file a new registration statement, revised as appropriate, on the second Monday in January of each odd-numbered year (~~or and~~). Failure to do so (~~shall~~) terminates (~~his~~) the lobbyist's registration.

Sec. 802. RCW 42.17.155 and 1995 c 397 s 6 are each amended to read as follows:

Each lobbyist shall at the time he or she registers submit to the commission a recent photograph of himself or herself of a size and format as determined by rule of the commission, together with the name of the lobbyist's employer, the length of his or her employment as a lobbyist before the legislature, a brief biographical description, and any other information he or she may wish to submit not to exceed fifty words in length. (~~Such~~) The photograph and information shall be published by the commission at least biennially in a booklet form (~~by the commission~~) for distribution to legislators and the public.

Sec. 803. RCW 42.17.160 and 1998 c 55 s 3 are each amended to read as follows:

The following persons and activities (~~shall be~~) are exempt from registration and reporting under RCW 42.17.150, 42.17.170, and 42.17.200 (as recodified by this act):

(1) Persons who limit their lobbying activities to appearing before public sessions of committees of the legislature, or public hearings of state agencies;

(2) Activities by lobbyists or other persons whose participation has been solicited by an agency under RCW 34.05.310(2);

(3) News or feature reporting activities and editorial comment by working members of the press, radio, or television and the publication or dissemination thereof by a newspaper, book publisher, regularly published periodical, radio station, or television station;

(4) Persons who lobby without compensation or other consideration for acting as a lobbyist (~~or PROVIDED, Such~~), if the person makes no expenditure for or on behalf of any member of the legislature or elected official or public officer or employee of the state of Washington in connection with such lobbying. The exemption contained in this subsection is intended to permit and encourage citizens of this state to lobby any legislator, public official, or state agency without incurring any registration or reporting obligation provided they do not exceed the limits stated above. Any person exempt under this subsection (4) may at his or her option register and report under this chapter;

(5) Persons who restrict their lobbying activities to no more than four days or parts (~~thereof~~) of four days during any three-month period and whose total expenditures during such three-month period for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington in connection with such lobbying do not exceed twenty-five dollars (~~or PROVIDED, That~~). The commission shall (~~promulgate regulations~~) adopt rules to require disclosure by persons exempt under this subsection or their employers or entities which sponsor or coordinate the lobbying activities of such persons if it determines that such regulations are necessary to prevent frustration of the purposes of this chapter. Any person exempt under this subsection (5) may at his or her option register and report under this chapter;

(6) The governor;

(7) The lieutenant governor;

(8) Except as provided by RCW 42.17.190(1) (as recodified by this act), members of the legislature;

(9) Except as provided by RCW 42.17.190(1) (as recodified by this act), persons employed by the legislature for the purpose of aiding in the preparation or enactment of legislation or the performance of legislative duties;

(10) Elected officials, and officers and employees of any agency reporting under RCW 42.17.190(5) (as recodified by this act).

Sec. 804. RCW 42.17.170 and 1995 c 397 s 33 are each amended to read as follows:

(1) Any lobbyist registered under RCW 42.17.150 (as recodified by this act) and any person who lobbies shall file with the commission ~~((periodic))~~ monthly reports of his or her lobbying activities ~~((signed by the lobbyist))~~. The reports shall be made in the form and manner prescribed by the commission and must be signed by the lobbyist. ~~((They shall be due monthly and))~~ The monthly report shall be filed within fifteen days after the last day of the calendar month covered by the report.

(2) ~~((Each such))~~ The monthly ~~((periodic))~~ report shall contain:

(a) The totals of all expenditures for lobbying activities made or incurred by ~~((such))~~ the lobbyist or on behalf of ~~((such))~~ the lobbyist by the lobbyist's employer during the period covered by the report. ~~((Such))~~ Expenditure totals for lobbying activities shall be segregated according to financial category, including compensation; food and refreshments; living accommodations; advertising; travel; contributions; and other expenses or services. Each individual expenditure of more than twenty-five dollars for entertainment shall be identified by date, place, amount, and the names of all persons ~~((in the group partaking in or of such))~~ taking part in the entertainment, along with the dollar amount attributable to each person, including ~~((any portion thereof attributable to))~~ the lobbyist's ~~((participation therein, and shall include amounts actually expended on each person where calculable, or allocating any portion of the expenditure to individual participants.~~

~~Notwithstanding the foregoing, lobbyists are not required to report the following:~~

~~— (i) Unreimbursed personal living and travel expenses not incurred directly for lobbying;~~

~~— (ii) Any expenses incurred for his or her own living accommodations;~~

~~— (iii) Any expenses incurred for his or her own travel to and from hearings of the legislature;~~

~~— (iv) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance))~~ portion.

(b) In the case of a lobbyist employed by more than one employer, the proportionate amount of ~~((such))~~ expenditures in each category incurred on behalf of each of ~~((his))~~ the lobbyist's employers.

(c) An itemized listing of each ~~((such expenditure))~~ contribution of money or of tangible or intangible personal property, whether contributed by the lobbyist personally or delivered or transmitted by the lobbyist, ~~((in the nature of a contribution of money or of tangible or intangible personal property))~~ to any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition, or for or on behalf of any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition. All contributions made to, or for the benefit of, any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition shall be identified by date, amount, and the name of the candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition receiving, or to be benefited by each such contribution.

(d) The subject matter of proposed legislation or other legislative activity or rule~~(-)~~ making under chapter 34.05 RCW, the state administrative procedure act, and the state agency considering the same, which the lobbyist has been engaged in supporting or opposing during the reporting period, unless exempt under RCW 42.17.160(2) (as recodified by this act).

(e) ~~((Such other information relevant to lobbying activities as the commission shall by rule prescribe. Information supporting such activities as are required to be reported is subject to audit by the commission.~~

~~— (f))~~ A listing of each payment for an item specified in RCW 42.52.150(5) in excess of fifty dollars and each item specified in

RCW 42.52.010~~((9))~~ (10) (d) and (f) made to a state elected official, state officer, or state employee. Each item shall be identified by recipient, date, and approximate value of the item.

~~((g))~~ (f) The total expenditures ~~((made))~~ paid or incurred during the reporting period by the lobbyist for lobbying purposes, whether through or on behalf of a lobbyist or otherwise~~((— As used in this subsection, "expenditures" includes amounts paid or incurred during the reporting period))~~, for (i) political advertising as defined in RCW 42.17.020 (as recodified by this act); and (ii) public relations, telemarketing, polling, or similar activities if ~~((such))~~ the activities, directly or indirectly, are intended, designed, or calculated to influence legislation or the adoption or rejection of a rule, standard, or rate by an agency under the administrative procedure act. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(3) ~~((If a state elected official or a member of such an official's immediate family is identified by a lobbyist in such a report as having received from the lobbyist an item specified in RCW 42.52.150(5) or 42.52.010(9) (d) or (f), the lobbyist shall transmit to the official a copy of the completed form used to identify the item in the report at the same time the report is filed with the commission))~~ Lobbyists are not required to report the following:

(a) Unreimbursed personal living and travel expenses not incurred directly for lobbying;

(b) Any expenses incurred for his or her own living accommodations;

(c) Any expenses incurred for his or her own travel to and from hearings of the legislature;

(d) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance.

(4) The commission may adopt rules to vary the content of lobbyist reports to address specific circumstances, consistent with this section. Lobbyist reports are subject to audit by the commission.

Sec. 805. RCW 42.17.172 and 1993 c 2 s 32 are each amended to read as follows:

(1) When a listing or a report of contributions is made to the commission under RCW 42.17.170(2)(c) (as recodified by this act), a copy of the listing or report must be given to the candidate, elected official, professional staff member of the legislature, or officer or employee of an agency, or a political committee supporting or opposing a ballot proposition named in the listing or report.

(2) If a state elected official or a member of the official's immediate family is identified by a lobbyist in a lobbyist report as having received from the lobbyist an item specified in RCW 42.52.150(5) or 42.52.010(10) (d) or (f), the lobbyist shall transmit to the official a copy of the completed form used to identify the item in the report at the same time the report is filed with the commission.

Sec. 806. RCW 42.17.175 and 2001 c 54 s 3 are each amended to read as follows:

Any lobbyist registered under RCW 42.17.150 (as recodified by this act), any person who lobbies, and any lobbyist's employer making a contribution or an aggregate of contributions to a single entity that is one thousand dollars or more during a special reporting period, as specified in RCW 42.17.105 (as recodified by this act), before a primary or general election~~((— as such period is specified in RCW 42.17.105(1+))~~) shall file one or more special reports ~~((for the contribution or aggregate of contributions and for subsequent contributions made during that period under the same circumstances))~~ in the same manner and to the same extent that a contributing political committee must file ((such a report or reports)) under RCW 42.17.105 (as recodified by this act). ~~((Such a special report shall be filed in the same manner provided under RCW 42.17.105 for a special report of a contributing political committee.))~~

Sec. 807. RCW 42.17.180 and 1993 c 2 s 27 are each amended to read as follows:

(1) Every employer of a lobbyist registered under this chapter during the preceding calendar year and every person other than an individual that made contributions aggregating to more than ~~((ten))~~ sixteen thousand dollars or independent expenditures aggregating to more than ~~((five))~~ eight hundred dollars during the preceding calendar year shall file with the commission on or before the last day of February of each year a statement disclosing for the preceding calendar year the following information:

(a) The name of each state elected official and the name of each candidate for state office who was elected to the office and any member of the immediate family of those persons to whom the person reporting has paid any compensation in the amount of ~~((five))~~ eight hundred dollars or more during the preceding calendar year for personal employment or professional services, including professional services rendered by a corporation, partnership, joint venture, association, union, or other entity in which the person holds any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more, the value of the compensation in accordance with the reporting provisions set out in RCW 42.17.241(2) (as recodified by this act), and the consideration given or performed in exchange for the compensation.

(b) The name of each state elected official, successful candidate for state office, or members of his or her immediate family to whom the person reporting made expenditures, directly or indirectly, either through a lobbyist or otherwise, the amount of the expenditures and the purpose for the expenditures. For the purposes of this subsection, ~~((the term))~~ "expenditure" shall not include any expenditure made by the employer in the ordinary course of business if the expenditure is not made for the purpose of influencing, honoring, or benefiting the elected official, successful candidate, or member of his immediate family, as an elected official or candidate.

(c) The total expenditures made by the person reporting for lobbying purposes, whether through or on behalf of a registered lobbyist or otherwise.

(d) All contributions made to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a statewide ballot proposition. Such contributions shall be identified by the name and the address of the recipient and the aggregate amount contributed to each such recipient.

(e) The name and address of each registered lobbyist employed by the person reporting and the total expenditures made by ~~((such))~~ the person reporting for each ~~((such))~~ lobbyist for lobbying purposes.

(f) The names, offices sought, and party affiliations of candidates for state offices supported or opposed by independent expenditures of the person reporting and the amount of each such expenditure.

(g) The identifying proposition number and a brief description of any statewide ballot proposition supported or opposed by expenditures not reported under (d) of this subsection and the amount of each such expenditure.

(h) ~~((Such))~~ Any other information ~~((as))~~ the commission prescribes by rule.

(2)(a) Except as provided in (b) of this subsection, an employer of a lobbyist registered under this chapter shall file a special report with the commission if the employer makes a contribution or contributions aggregating more than one hundred dollars in a calendar month to any one of the following: A candidate, elected official, officer or employee of an agency, or political committee. The report shall identify the date and amount of each such contribution and the name of the candidate, elected official, agency officer or employee, or political committee receiving the contribution or to be benefited by the contribution. The report shall be filed on a form prescribed by the commission and shall be filed within fifteen days after the last day of the calendar month during which the contribution was made.

(b) The provisions of (a) of this subsection do not apply to a contribution ~~((which))~~ that is made through a registered lobbyist and reportable under RCW 42.17.170 (as recodified by this act).

Sec. 808. RCW 42.17.190 and 1995 c 397 s 7 are each amended to read as follows:

(1) The house of representatives and the senate shall report annually: The total budget; the portion of the total attributed to staff; and the number of full-time and part-time staff positions by assignment, with dollar figures as well as number of positions.

(2) Unless authorized by subsection (3) of this section or otherwise expressly authorized by law, no public funds may be used directly or indirectly for lobbying~~((=PROVIDED))~~. However, this does not prevent officers or employees of an agency from communicating with a member of the legislature on the request of that member; or communicating to the legislature, through the proper official channels, requests for legislative action or appropriations ~~((which))~~ that are deemed necessary for the efficient conduct of the public business or actually made in the proper performance of their official duties~~((= PROVIDED FURTHER, That))~~. This subsection does not apply to the legislative branch.

(3) Any agency, not otherwise expressly authorized by law, may expend public funds for lobbying, but such lobbying activity shall be limited to (a) providing information or communicating on matters pertaining to official agency business to any elected official or officer or employee of any agency or (b) advocating the official position or interests of the agency to any elected official or officer or employee of any agency~~((= PROVIDED, That))~~. Public funds may not be expended as a direct or indirect gift or campaign contribution to any elected official or officer or employee of any agency. For the purposes of this subsection, ((the term)) "gift" means a voluntary transfer of any thing of value without consideration of equal or greater value, but does not include informational material transferred for the sole purpose of informing the recipient about matters pertaining to official agency business. This section does not permit the printing of a state publication ((which)) that has been otherwise prohibited by law.

(4) No elective official or any employee of his or her office or any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, in any effort to support or oppose an initiative to the legislature. "Facilities of a public office or agency" has the same meaning as in RCW 42.17.130 (as recodified by this act) and 42.52.180. The provisions of this subsection shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose an initiative to the legislature so long as (i) any required notice of the meeting includes the title and number of the initiative to the legislature, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any initiative to the legislature at an open press conference or in response to a specific inquiry;

(c) Activities ~~((which))~~ that are part of the normal and regular conduct of the office or agency;

(d) Activities conducted regarding an initiative to the legislature that would be permitted under RCW 42.17.130 (as recodified by this act) and 42.52.180 if conducted regarding other ballot measures.

(5) Each state agency, county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district ~~((which))~~ that expends public funds for lobbying shall file with the commission, except as exempted by (d) of this subsection, quarterly statements providing the following information for the quarter just completed:

(a) The name of the agency filing the statement;

(b) The name, title, and job description and salary of each elected official, officer, or employee who lobbied, a general description of the

nature of the lobbying, and the proportionate amount of time spent on the lobbying;

(c) A listing of expenditures incurred by the agency for lobbying including but not limited to travel, consultant or other special contractual services, and brochures and other publications, the principal purpose of which is to influence legislation;

(d) For purposes of this subsection (~~(the term)~~), "lobbying" does not include:

(i) Requests for appropriations by a state agency to the office of financial management pursuant to chapter 43.88 RCW nor requests by the office of financial management to the legislature for appropriations other than its own agency budget requests;

(ii) Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific study, recommendation, or report by an agency on a particular subject;

(iii) Official reports including recommendations submitted to the legislature on an annual or biennial basis by a state agency as required by law;

(iv) Requests, recommendations, or other communication between or within state agencies or between or within local agencies;

(v) Any other lobbying to the extent that it includes:

(A) Telephone conversations or preparation of written correspondence;

(B) In-person lobbying on behalf of an agency of no more than four days or parts thereof during any three-month period by officers or employees of that agency and in-person lobbying by any elected official of such agency on behalf of such agency or in connection with the powers, duties, or compensation of such official(~~(- PROVIDED, That)~~). The total expenditures of nonpublic funds made in connection with such lobbying for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington (~~(do)~~) may not exceed fifteen dollars for any three-month period(~~(- PROVIDED FURTHER, That)~~). The exemption under this subsection (5)(d)(v)(B) is in addition to the exemption provided in (d)(v)(A) of this subsection;

(C) Preparation or adoption of policy positions.

The statements shall be in the form and the manner prescribed by the commission and shall be filed within one month after the end of the quarter covered by the report.

(6) In lieu of reporting under subsection (5) of this section, any county, city, town, municipal corporation, quasi municipal corporation, or special purpose district may determine and so notify the public disclosure commission(~~(s)~~) that elected officials, officers, or employees who, on behalf of any such local agency, engage in lobbying reportable under subsection (5) of this section shall register and report such reportable lobbying in the same manner as a lobbyist who is required to register and report under RCW 42.17.150 and 42.17.170 (as recodified by this act). Each such local agency shall report as a lobbyist employer pursuant to RCW 42.17.180 (as recodified by this act).

(7) The provisions of this section do not relieve any elected official or officer or employee of an agency from complying with other provisions of this chapter, if such elected official, officer, or employee is not otherwise exempted.

(8) The purpose of this section is to require each state agency and certain local agencies to report the identities of those persons who lobby on behalf of the agency for compensation, together with certain separately identifiable and measurable expenditures of an agency's funds for that purpose. This section shall be reasonably construed to accomplish that purpose and not to require any agency to report any of its general overhead cost or any other costs (~~(which)~~) that relate only indirectly or incidentally to lobbying or (~~(which)~~) that are equally attributable to or inseparable from nonlobbying activities of the agency.

The public disclosure commission may adopt rules clarifying and implementing this legislative interpretation and policy.

Sec. 809. RCW 42.17.200 and 1990 c 139 s 5 are each amended to read as follows:

(1) Any person who has made expenditures, not reported by a registered lobbyist under RCW 42.17.170 (as recodified by this act) or by a candidate or political committee under RCW 42.17.065 or 42.17.080 (as recodified by this act), exceeding ~~((five hundred))~~ one thousand dollars in the aggregate within any three-month period or exceeding ~~((two))~~ five hundred dollars in the aggregate within any one-month period in presenting a program (~~(addressed)~~) to the public, a substantial portion of which is intended, designed, or calculated primarily to influence legislation shall (~~(be required to)~~) register and report, as provided in subsection (2) of this section, as a sponsor of a grass roots lobbying campaign.

(2) Within thirty days after becoming a sponsor of a grass roots lobbying campaign, the sponsor shall register by filing with the commission a registration statement, in such detail as the commission shall prescribe, showing:

(a) The sponsor's name, address, and business or occupation, and, if the sponsor is not an individual, the names, addresses, and titles of the controlling persons responsible for managing the sponsor's affairs;

(b) The names, addresses, and business or occupation of all persons organizing and managing the campaign, or hired to assist the campaign, including any public relations or advertising firms participating in the campaign, and the terms of compensation for all such persons;

(c) The names and addresses of each person contributing twenty-five dollars or more to the campaign, and the aggregate amount contributed;

(d) The purpose of the campaign, including the specific legislation, rules, rates, standards, or proposals that are the subject matter of the campaign;

(e) The totals of all expenditures made or incurred to date on behalf of the campaign(~~(- which totals shall be)~~) segregated according to financial category, including but not limited to the following: Advertising, segregated by media, and in the case of large expenditures (as provided by rule of the commission), by outlet; contributions; entertainment, including food and refreshments; office expenses including rent and the salaries and wages paid for staff and secretarial assistance, or the proportionate amount (~~(thereof)~~) paid or incurred for lobbying campaign activities; consultants; and printing and mailing expenses.

(3) Every sponsor who has registered under this section shall file monthly reports with the commission(~~(- which reports shall be filed)~~) by the tenth day of the month for the activity during the preceding month. The reports shall update the information contained in the sponsor's registration statement and in prior reports and shall show contributions received and totals of expenditures made during the month, in the same manner as provided for in the registration statement.

(4) When the campaign has been terminated, the sponsor shall file a notice of termination with the final monthly report(~~(- which notice)~~). The final report shall state the totals of all contributions and expenditures made on behalf of the campaign, in the same manner as provided for in the registration statement.

Sec. 810. RCW 42.17.210 and 1973 c 1 s 21 are each amended to read as follows:

If any person registered or required to be registered as a lobbyist (~~(under this chapter employs)~~), or (~~(if)~~) any employer of any person registered or required to be registered as a lobbyist (~~(under this chapter)~~), employs (~~(any)~~) a member or an employee of the legislature, (~~(or any)~~) a member of (~~(any)~~) a state board or commission, (~~(or any employee of the legislature)~~), or (~~(any)~~) a full-time state employee, (~~(if such)~~) and that new employee (~~(shall)~~) remains in the partial employ of the state (~~(or any agency thereof, then)~~), the new employer (~~(shall)~~) must file within fifteen days after employment a statement (~~(under oath)~~) with the commission, signed

under oath, setting out the nature of the employment, the name of the person ~~((to be paid thereunder))~~ employed, and the amount of pay or consideration ~~((to be paid thereunder. The statement shall be filed within fifteen days after the commencement of such employment))~~.

Sec. 811. RCW 42.17.220 and 1973 c 1 s 22 are each amended to read as follows:

It ~~((shall be))~~ is a violation of this chapter for any person to employ for pay or any consideration, or pay or agree to pay any consideration to, a person to lobby who is not registered under this chapter except upon the condition that such a person must register as a lobbyist as provided by this chapter~~((, and such person does in fact so register as soon as practicable))~~.

Sec. 812. RCW 42.17.230 and 1987 c 201 s 2 are each amended to read as follows:

~~(1) A person required to register as a lobbyist under ((this chapter shall also have the following obligations, the violation of which shall constitute cause for revocation of his registration, and may subject such person, and such person's employer, if such employer aids, abets, ratifies, or confirms any such act, to other civil liabilities, as provided by this chapter:~~

~~—(1) Such persons shall obtain and preserve all) RCW 42.17.150 (as recodified by this act) shall substantiate financial reports required to be made under this chapter with accounts, bills, receipts, books, papers, and other necessary documents ((necessary to substantiate the financial reports required to be made under this chapter)). All such documents must be obtained and preserved for a period of at least five years from the date of ((the)) filing ((of)) the statement containing such items~~((, which accounts, bills, receipts, books, papers, and documents))~~ and shall be made available for inspection by the commission at any time~~((: PROVIDED, That if a lobbyist is required under))~~. If the terms of ((his)) the lobbyist's employment contract ((to turn any)) require that these records be turned over to his or her employer, responsibility for the preservation and inspection of ((such)) these records under this subsection shall ((rest)) be with such employer.~~

~~(2) ((In addition,))~~ A person required to register as a lobbyist under RCW 42.17.150 (as recodified by this act) shall not:

(a) Engage in any lobbying activity ~~((as a lobbyist))~~ before registering as ~~((such))~~ a lobbyist;

(b) Knowingly deceive or attempt to deceive ~~((any))~~ a legislator ~~((as to any fact))~~ regarding the facts pertaining to any pending or proposed legislation;

(c) Cause or influence the introduction of ~~((any))~~ a bill or amendment ~~((thereto))~~ to that bill for the purpose of ~~((thereafter))~~ later being employed to secure its defeat;

(d) Knowingly represent an interest adverse to ~~((any of))~~ his or her employer~~((s))~~ without ~~((first))~~ full disclosure of the adverse interest to the employer and obtaining ((such)) the employer's written consent ((thereto after full disclosure to such employer of such adverse interest));

(e) Exercise any undue influence, extortion, or unlawful retaliation upon any legislator ~~((by reason of such))~~ due to the legislator's position ~~((with respect to, or his vote upon,))~~ or vote on any pending or proposed legislation;

(f) Enter into any agreement, arrangement, or understanding ~~((according to which his or her))~~ in which any portion of his or her compensation~~((, or any portion thereof,))~~ is or will be contingent upon ((the)) his or her success ((of any attempt to influence)) in influencing legislation.

(3) A violation by a lobbyist of this section shall be cause for revocation of his or her registration, and may subject the lobbyist and the lobbyist's employer, if the employer aids, abets, ratifies, or confirms the violation, to other civil liabilities as provided by this chapter.

PART 9

PERSONAL FINANCIAL AFFAIRS REPORTING

BY CANDIDATES AND PUBLIC OFFICIALS

Sec. 901. RCW 42.17.240 and 1995 c 397 s 8 are each amended to read as follows:

(1) After January 1st and before April 15th of each year, every elected official and every executive state officer shall ~~((after January 1st and before April 15th of each year))~~ file with the commission a statement of financial affairs for the preceding calendar year. However, any local elected official whose term of office ~~((expires immediately after))~~ ends on December 31st shall file the statement required to be filed by this section for the final year ~~((that ended on that December 31st))~~ of his or her term.

(2) Within two weeks of becoming a candidate, every candidate shall ~~((within two weeks of becoming a candidate))~~ file with the commission a statement of financial affairs for the preceding twelve months.

(3) Within two weeks of appointment, every person appointed to a vacancy in an elective office or executive state officer position shall ~~((within two weeks of being so appointed))~~ file with the commission a statement of financial affairs for the preceding twelve months.

(4) A statement of a candidate or appointee filed during the period from January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of the statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year.

(5) No individual may be required to file more than once in any calendar year.

(6) Each statement of financial affairs filed under this section shall be sworn as to its truth and accuracy.

(7) Every elected official and every executive state officer shall file with their statement of financial affairs a statement certifying that they have read and are familiar with RCW 42.17.130 (as recodified by this act) or 42.52.180, whichever is applicable.

(8) For the purposes of this section, the term "executive state officer" includes those listed in RCW 42.17.2401.

(9) This section does not apply to incumbents or candidates for a federal office or the office of precinct committee officer.

Sec. 902. RCW 42.17.2401 and 2009 c 565 s 24 are each amended to read as follows:

For the purposes of RCW 42.17.240 (as recodified by this act), ~~((the term))~~ "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, ~~((the administrator of the Washington basic health plan,))~~ the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of commerce, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the director of personnel, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue, the

secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, (~~committee for deferred compensation~~) Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, life sciences discovery fund authority board of trustees, Washington health care facilities authority, (~~each member of the Washington health services commission~~) higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, (~~recreation and conservation funding board~~) state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, (~~marine oversight board~~) Pacific Northwest electric power and conservation planning council, parks and recreation commission, board of pilotage commissioners, pollution control hearings board, public disclosure commission, (~~public pension commission~~) shorelines hearings board, public employees' benefits board, recreation and conservation funding board, salmon recovery funding board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, (~~Washington state maritime commission~~) Washington personnel resources board, Washington (~~public power supply system~~) energy northwest executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission.

Sec. 903. RCW 42.17.241 and 2008 c 6 s 202 are each amended to read as follows:

(1) The statement of financial affairs required by RCW 42.17.240 (as recodified by this act) shall disclose the following information for the reporting individual and each member of his or her immediate family:

(a) Occupation, name of employer, and business address; (~~and~~)

(b) Each bank (~~or~~) account, savings account (~~or~~), and insurance policy in which (~~any such person or persons owned~~) a direct financial interest (~~that exceeded five~~) was held that exceeds twenty thousand dollars at any time during the reporting period; each other item of intangible personal property in which (~~any such person or persons owned~~) a direct financial interest (~~the value of which exceeded five hundred~~) was held that exceeds two thousand dollars during the reporting period; the name, address, and nature of the entity; and the nature and highest value of each (~~such~~) direct financial interest during the reporting period; (~~and~~)

(c) The name and address of each creditor to whom the value of (~~five hundred~~) two thousand dollars or more was owed; the original amount of each debt to each (~~such~~) creditor; the amount of each debt owed to each creditor as of the date of filing; the terms of repayment of each (~~such~~) debt; and the security given, if any, for each such debt (~~PROVIDED, That~~). Debts arising (~~out of~~) from a "retail installment transaction" as defined in chapter 63.14 RCW (retail installment sales act) need not be reported; (~~and~~)

(d) Every public or private office, directorship, and position held as trustee; (~~and~~)

(e) All persons for whom any legislation, rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation (~~PROVIDED, That~~). For the purposes of this subsection, "compensation" does not include payments made to the person reporting by the governmental entity for which (~~such~~) the person serves as an elected official or state executive officer or professional staff member for his or her service in office; the description of such actual or proposed legislation, rules, rates, or standards; and the amount of current or deferred compensation paid or promised to be paid; (~~and~~)

(f) The name and address of each governmental entity, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from whom compensation has been received in any form of a total value of (~~five hundred~~) two thousand dollars or more; the value of the compensation; and the consideration given or performed in exchange for the compensation; (~~and~~)

(g) The name of any corporation, partnership, joint venture, association, union, or other entity in which is held any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more; the name or title of that office, directorship, or partnership; the nature of ownership interest; and (~~with respect to each such entity~~): (i) With respect to a governmental unit in which the official seeks or holds any office or position, if the entity has received compensation in any form during the preceding twelve months from the governmental unit, the value of the compensation and the consideration given or performed in exchange for the compensation; and (ii) the name of each governmental unit, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which the entity has received compensation in any form in the amount of (~~two thousand five hundred~~) ten thousand dollars or more during the preceding twelve months and the consideration given or performed in exchange for the compensation (~~PROVIDED, That the term~~). As used in (g)(ii) of this subsection, "compensation" (for purposes of this subsection (1)(g)(ii)) does not include payment for water and other utility services at rates approved by the Washington state utilities and transportation commission or the legislative authority of the public entity providing the service (~~PROVIDED, FURTHER, That~~). With respect to any bank or commercial lending institution in which is held any office, directorship, partnership interest, or ownership interest, it shall only be necessary to report either the name, address, and occupation of every director and officer of the bank or commercial lending institution and the average monthly balance of each account held during the preceding twelve months by the bank or commercial lending institution from the governmental entity for which the individual is an official or candidate or professional staff member, or all interest paid by a borrower on loans from and all interest paid to a depositor by the bank or commercial lending institution if the interest exceeds (six) two thousand four hundred dollars; (~~and~~)

(h) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds (~~two thousand five hundred~~) ten thousand dollars in which any direct financial interest was acquired during the preceding calendar year, and a statement of the amount and nature of the financial interest and of the consideration given in exchange for that interest; (~~and~~)

(i) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds (~~two thousand five hundred~~) ten thousand dollars in which any direct financial interest was divested during the preceding calendar year, and a statement of the amount and nature of the consideration received in exchange for that interest, and the name and address of the person furnishing the consideration; (~~and~~)

(j) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ~~((two thousand five hundred))~~ ten thousand dollars in which a direct financial interest was held ~~((PROVIDED, That))~~. If a description of the property has been included in a report previously filed, the property may be listed, for purposes of this ~~((provision))~~ subsection (1)(j), by reference to the previously filed report; ~~((and))~~

(k) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ~~((five))~~ twenty thousand dollars, in which a corporation, partnership, firm, enterprise, or other entity had a direct financial interest, in which corporation, partnership, firm, or enterprise a ten percent or greater ownership interest was held; ~~((and))~~

(l) A list of each occasion, specifying date, donor, and amount, at which food and beverage in excess of fifty dollars was accepted under RCW 42.52.150(5); ~~((and))~~

(m) A list of each occasion, specifying date, donor, and amount, at which items specified in RCW 42.52.010(10) (d) and (f) were accepted; and

(n) Such other information as the commission may deem necessary in order to properly carry out the purposes and policies of this chapter, as the commission shall prescribe by rule.

(2) Where an amount is required to be reported under subsection (1)(a) through (m) of this section, it shall be sufficient to comply with the requirement to report whether the amount is less than ~~((one))~~ four thousand dollars, at least ~~((one))~~ four thousand dollars but less than ~~((five))~~ twenty thousand dollars, at least ~~((five))~~ twenty thousand dollars but less than ~~((ten))~~ forty thousand dollars, at least ~~((ten))~~ forty thousand dollars but less than ~~((twenty five))~~ one hundred thousand dollars or more. An amount of stock may be reported by number of shares instead of by market value. No provision of this subsection may be interpreted to prevent any person from filing more information or more detailed information than required.

(3) Items of value given to an official's or employee's spouse, domestic partner, or family member are attributable to the official or employee, except the item is not attributable if an independent business, family, or social relationship exists between the donor and the spouse, domestic partner, or family member.

Sec. 904. RCW 42.17.242 and 1977 ex.s. c 336 s 4 are each amended to read as follows:

No payment shall be made to any person required to report under RCW 42.17.240 (as recodified by this act) and no payment shall be accepted by any such person, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the payment or in any other manner so as to effect concealment ~~((except that))~~. The commission may issue categorical and specific exemptions to the reporting of the actual source when there is an undisclosed principal for recognized legitimate business purposes.

PART 10 ENFORCEMENT

Sec. 1001. RCW 42.17.390 and 2006 c 315 s 2 are each amended to read as follows:

One or more of the following civil remedies and sanctions may be imposed by court order in addition to any other remedies provided by law:

(1) If the court finds that the violation of any provision of this chapter by any candidate or political committee probably affected the outcome of any election, the result of ~~((said))~~ that election may be held void and a special election held within sixty days of ~~((such))~~ the finding. Any action to void an election shall be commenced within one year of the date of the election in question. It is intended that this

remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

(2) If any lobbyist or sponsor of any grass roots lobbying campaign violates any of the provisions of this chapter, his or her registration may be revoked or suspended and he or she may be enjoined from receiving compensation or making expenditures for lobbying ~~((PROVIDED, HOWEVER, That))~~. The imposition of ~~((such))~~ a sanction shall not excuse ~~((said))~~ the lobbyist from filing statements and reports required by this chapter.

(3) ~~((Any))~~ A person who violates any of the provisions of this chapter may be subject to a civil penalty of not more than ten thousand dollars for each ~~((such))~~ violation. However, a person or entity who violates RCW 42.17.640 (as recodified by this act) may be subject to a civil penalty of ten thousand dollars or three times the amount of the contribution illegally made or accepted, whichever is greater.

(4) ~~((Any))~~ A person who fails to file a properly completed statement or report within the time required by this chapter may be subject to a civil penalty of ten dollars per day for each day each ~~((such))~~ delinquency continues.

(5) ~~((Any))~~ A person who fails to report a contribution or expenditure as required by this chapter may be subject to a civil penalty equivalent to the amount not reported as required.

(6) The court may enjoin any person to prevent the doing of any act herein prohibited, or to compel the performance of any act required herein.

Sec. 1002. RCW 42.17.395 and 2006 c 315 s 3 are each amended to read as follows:

(1) The commission may (a) determine whether an actual violation of this chapter has occurred; and (b) issue and enforce an appropriate order following such a determination.

(2) The commission, in cases where it chooses to determine whether an actual violation has occurred, shall hold a hearing pursuant to the administrative procedure act, chapter 34.05 RCW, to make ~~((such))~~ a determination. Any order that the commission issues under this section shall be pursuant to such a hearing.

(3) In lieu of holding a hearing or issuing an order under this section, the commission may refer the matter to the attorney general or other enforcement agency as provided in RCW 42.17.360 (as recodified by this act).

(4) The person against whom an order is directed under this section shall be designated as the respondent. The order may require the respondent to cease and desist from the activity that constitutes a violation and in addition, or alternatively, may impose one or more of the remedies provided in RCW 42.17.390 (2) through (5) (as recodified by this act). No individual penalty assessed by the commission may exceed one thousand seven hundred dollars, and in any case where multiple violations are involved in a single complaint or hearing, the maximum aggregate penalty may not exceed four thousand two hundred dollars.

(5) An order issued by the commission under this section shall be subject to judicial review under the administrative procedure act, chapter 34.05 RCW. If the commission's order is not satisfied and no petition for review is filed within thirty days ~~((as provided in RCW 34.05.542))~~, the commission may petition a court of competent jurisdiction of any county in which a petition for review could be filed under that section, for an order of enforcement. Proceedings in connection with the commission's petition shall be in accordance with RCW 42.17.397 (as recodified by this act).

Sec. 1003. RCW 42.17.397 and 1989 c 175 s 92 are each amended to read as follows:

The following procedure shall apply in all cases where the commission has petitioned a court of competent jurisdiction for enforcement of any order it has issued pursuant to this chapter:

(1) A copy of the petition shall be served by certified mail directed to the respondent at his or her last known address. The court

shall issue an order directing the respondent to appear at a time designated in the order, not less than five days from the date thereof, and show cause why the commission's order should not be enforced according to its terms.

(2) The commission's order shall be enforced by the court if the respondent does not appear, or if the respondent appears and the court finds, pursuant to a hearing held for that purpose:

(a) That the commission's order is unsatisfied; ~~((and))~~

(b) That the order is regular on its face; and

(c) That the respondent's answer discloses no valid reason why the commission's order should not be enforced or that the respondent had an appropriate remedy by review under RCW 34.05.570(3) and failed to avail himself or herself of that remedy without valid excuse.

(3) Upon appropriate application by the respondent, the court may, after hearing and for good cause, alter, amend, revise, suspend, or postpone all or part of the commission's order. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and ~~((such))~~ the action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) The court's order of enforcement, when entered, shall have the same force and effect as a civil judgment.

(5) Notwithstanding RCW 34.05.578 through 34.05.590, this section is the exclusive method for enforcing an order of the commission.

Sec. 1004. RCW 42.17.400 and 2007 c 455 s 1 are each amended to read as follows:

(1) The attorney general and the prosecuting authorities of political subdivisions of this state may bring civil actions in the name of the state for any appropriate civil remedy, including but not limited to the special remedies provided in RCW 42.17.390 (as recodified by this act).

(2) The attorney general and the prosecuting authorities of political subdivisions of this state may investigate or cause to be investigated the activities of any person who there is reason to believe is or has been acting in violation of this chapter, and may require any such person or any other person reasonably believed to have information concerning the activities of such person to appear at a time and place designated in the county in which such person resides or is found, to give such information under oath and to produce all accounts, bills, receipts, books, paper and documents which may be relevant or material to any investigation authorized under this chapter.

(3) When the attorney general or the prosecuting authority of any political subdivision of this state requires the attendance of any person to obtain such information or ~~((the production of))~~ produce the accounts, bills, receipts, books, papers, and documents ~~((which))~~ that may be relevant or material to any investigation authorized under this chapter, he or she shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least fourteen days before the date fixed for attendance. ~~((Such))~~ The order shall have the same force and effect as a subpoena, shall be effective statewide, and, upon application of the attorney general or ~~((said))~~ the prosecuting authority, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the order were a subpoena. The court, after hearing, for good cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and ~~((such))~~ the action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) ~~((Any))~~ A person who has notified the attorney general and the prosecuting attorney in the county in which the violation occurred

in writing that there is reason to believe that some provision of this chapter is being or has been violated may himself or herself bring in the name of the state any of the actions (hereinafter referred to as a citizen's action) authorized under this chapter.

(a) This citizen action may be brought only if:

(i) The attorney general and the prosecuting attorney have failed to commence an action hereunder within forty-five days after ~~((such))~~ the notice;

(ii) ~~((Such))~~ The person has thereafter further notified the attorney general and prosecuting attorney that ~~((said))~~ the person will commence a citizen's action within ten days upon their failure ~~((so))~~ to do so;

(iii) The attorney general and the prosecuting attorney have in fact failed to bring such action within ten days of receipt of said second notice; and

(iv) The citizen's action is filed within two years after the date when the alleged violation occurred.

(b) If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but he or she shall be entitled to be reimbursed by the state of Washington for costs and ~~((attorney's))~~ attorneys' fees he or she has incurred ~~((: PROVIDED, That))~~. In the case of a citizen's action ~~((which))~~ that is dismissed and ~~((which))~~ that the court also finds was brought without reasonable cause, the court may order the person commencing the action to pay all costs of trial and reasonable ~~((attorney's))~~ attorneys' fees incurred by the defendant.

(5) In any action brought under this section, the court may award to the state all costs of investigation and trial, including ~~((a))~~ reasonable ~~((attorney's))~~ attorneys' fees to be fixed by the court. If the violation is found to have been intentional, the amount of the judgment, which shall for this purpose include the costs, may be trebled as punitive damages. If damages or trebled damages are awarded in such an action brought against a lobbyist, the judgment may be awarded against the lobbyist, and the lobbyist's employer or employers joined as defendants, jointly, severally, or both. If the defendant prevails, he or she shall be awarded all costs of trial, and may be awarded ~~((a))~~ reasonable ~~((attorney's))~~ attorneys' fees to be fixed by the court to be paid by the state of Washington.

Sec. 1005. RCW 42.56.010 and 2007 c 197 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) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(2) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, "person in interest" means and includes the parent or duly appointed legal representative.

(3) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.

((3)) (4) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

PART 11

MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 1101.** When RCW 42.17.2401 (as recodified by this act) is codified, the code reviser shall arrange the names of the agencies in each subsection in alphabetical order, arranged according to the first distinctive word of each agency's name.

NEW SECTION. **Sec. 1102.** The following sections are recodified as a new chapter in Title 42 RCW, to be codified as chapter 42.17A RCW, in the following order with the following subchapter headings:

GENERAL PROVISIONS

RCW 42.17.010
RCW 42.17.020
RCW 42.17.035
RCW 42.17.440

ELECTRONIC ACCESS

RCW 42.17.367
RCW 42.17.369
RCW 42.17.460
RCW 42.17.461
RCW 42.17.463

ADMINISTRATION

RCW 42.17.350
RCW 42.17.360
RCW 42.17.370

Section 304 of this act

RCW 42.17.690
RCW 42.17.380
RCW 42.17.405
RCW 42.17.420
RCW 42.17.430
RCW 42.17.450

CAMPAIGN FINANCE REPORTING

RCW 42.17.030
RCW 42.17.040
RCW 42.17.050

Section 404 of this act

RCW 42.17.060
RCW 42.17.065
RCW 42.17.067
RCW 42.17.080
RCW 42.17.090
RCW 42.17.3691
RCW 42.17.093
RCW 42.17.100
RCW 42.17.103
RCW 42.17.105
RCW 42.17.550
RCW 42.17.135

POLITICAL ADVERTISING AND ELECTIONEERING COMMUNICATIONS

RCW 42.17.561
RCW 42.17.565
RCW 42.17.570
RCW 42.17.575
RCW 42.17.510

RCW 42.17.520
RCW 42.17.530
RCW 42.17.540
RCW 42.17.110

CAMPAIGN CONTRIBUTION LIMITS AND OTHER RESTRICTIONS

RCW 42.17.610
RCW 42.17.640
RCW 42.17.645
RCW 42.17.700

Section 604 of this act

RCW 42.17.070
RCW 42.17.095
RCW 42.17.120

Section 607 of this act

RCW 42.17.125
RCW 42.17.650
RCW 42.17.660
RCW 42.17.670
RCW 42.17.720
RCW 42.17.730
RCW 42.17.740
RCW 42.17.770
RCW 42.17.780
RCW 42.17.790

RCW 42.17.680
RCW 42.17.760

PUBLIC OFFICIALS, EMPLOYEES, AND AGENCIES CAMPAIGN RESTRICTIONS AND PROHIBITIONS--REPORTING

RCW 42.17.128
RCW 42.17.130
RCW 42.17.710
RCW 42.17.750
RCW 42.17.245

Section 703 of this act

LOBBYING DISCLOSURE AND RESTRICTIONS

RCW 42.17.150
RCW 42.17.155
RCW 42.17.160
RCW 42.17.170
RCW 42.17.172
RCW 42.17.175
RCW 42.17.180
RCW 42.17.190
RCW 42.17.200
RCW 42.17.210
RCW 42.17.220

RCW 42.17.230

PERSONAL FINANCIAL AFFAIRS REPORTING BY CANDIDATES AND PUBLIC OFFICIALS

RCW 42.17.240
RCW 42.17.241
RCW 42.17.242

ENFORCEMENT

RCW 42.17.390
RCW 42.17.395
RCW 42.17.397
RCW 42.17.400
RCW 42.17.410

TECHNICAL PROVISIONS

RCW 42.17.900
RCW 42.17.910
RCW 42.17.911
RCW 42.17.912

RCW 42.17.920
 RCW 42.17.930
 RCW 42.17.940
 RCW 42.17.945
 RCW 42.17.950
 RCW 42.17.955
 RCW 42.17.960
 RCW 42.17.961
 RCW 42.17.962
 RCW 42.17.963
 RCW 42.17.964
 RCW 42.17.965
 RCW 42.17.966

NEW SECTION. Sec. 1103. The following acts or parts of acts, as now existing or hereafter amended, are each repealed:

- (1) RCW 42.17.131 (Exemption from RCW 42.17.130) and 1994 c 154 s 317;
- (2) RCW 42.17.362 (Toll-free telephone number) and 2000 c 237 s 6;
- (3) RCW 42.17.365 (Audits and investigations) and 1999 c 401 s 8 & 1993 c 2 s 29;
- (4) RCW 42.17.375 (Reports filed with county elections official--Rules governing) and 1983 c 294 s 1;
- (5) RCW 42.17.465 (Information technology plan--Contents) and 1999 c 401 s 4;
- (6) RCW 42.17.467 (Information technology plan--Consultation) and 1999 c 401 s 5;
- (7) RCW 42.17.469 (Information technology plan--Submission) and 1999 c 401 s 6;
- (8) RCW 42.17.471 (Access performance reports) and 1999 c 401 s 7;
- (9) RCW 42.17.562 (Intent) and 2005 c 445 s 2;
- (10) RCW 42.17.620 (Intent) and 1993 c 2 s 2; and
- (11) RCW 42.17.647 (Rules) and 2006 c 348 s 3.

NEW SECTION. Sec. 1104. Sections 505, 602, and 703 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. Sec. 1105. Sections 101 through 504, 506 through 601, and 603 through 1103 of this act take effect January 1, 2012."

On page 1, line 1 of the title, after "laws;" strike the remainder of the title and insert "amending RCW 42.17.020, 42.17.367, 42.17.369, 42.17.461, 42.17.463, 42.17.350, 42.17.360, 42.17.370, 42.17.690, 42.17.380, 42.17.405, 42.17.420, 42.17.450, 42.17.030, 42.17.040, 42.17.050, 42.17.060, 42.17.065, 42.17.067, 42.17.080, 42.17.090, 42.17.3691, 42.17.093, 42.17.100, 42.17.103, 42.17.105, 42.17.550, 42.17.135, 42.17.561, 42.17.565, 42.17.570, 42.17.575, 42.17.510, 42.17.520, 42.17.540, 42.17.110, 42.17.610, 42.17.640, 42.17.645, 42.17.070, 42.17.095, 42.17.125, 42.17.660, 42.17.720, 42.17.740, 42.17.790, 42.17.680, 42.17.130, 42.17.245, 42.17.150, 42.17.155, 42.17.160, 42.17.170, 42.17.172, 42.17.175, 42.17.180, 42.17.190, 42.17.200, 42.17.210, 42.17.220, 42.17.230, 42.17.240, 42.17.241, 42.17.242, 42.17.390, 42.17.395, 42.17.397, 42.17.400, and 42.56.010; reenacting and amending RCW 42.17.2401; adding a new chapter to Title 42 RCW; creating new sections; recodifying RCW 42.17.010, 42.17.020, 42.17.035, 42.17.440, 42.17.367, 42.17.369, 42.17.460, 42.17.461, 42.17.463, 42.17.350, 42.17.360, 42.17.370, 42.17.690, 42.17.380, 42.17.405, 42.17.420, 42.17.430, 42.17.450, 42.17.030, 42.17.040, 42.17.050, 42.17.060, 42.17.065, 42.17.067, 42.17.080, 42.17.090, 42.17.3691, 42.17.093, 42.17.100, 42.17.103, 42.17.105, 42.17.550, 42.17.135, 42.17.561, 42.17.565, 42.17.570, 42.17.575, 42.17.510, 42.17.520, 42.17.530, 42.17.540, 42.17.110, 42.17.610, 42.17.640, 42.17.645, 42.17.700, 42.17.070, 42.17.095, 42.17.120, 42.17.125, 42.17.650, 42.17.660, 42.17.670, 42.17.720, 42.17.730,

42.17.740, 42.17.770, 42.17.780, 42.17.790, 42.17.680, 42.17.760, 42.17.128, 42.17.130, 42.17.710, 42.17.750, 42.17.245, 42.17.150, 42.17.155, 42.17.160, 42.17.170, 42.17.172, 42.17.175, 42.17.180, 42.17.190, 42.17.200, 42.17.210, 42.17.220, 42.17.230, 42.17.240, 42.17.2401, 42.17.241, 42.17.242, 42.17.390, 42.17.395, 42.17.397, 42.17.400, 42.17.410, 42.17.900, 42.17.910, 42.17.911, 42.17.912, 42.17.920, 42.17.930, 42.17.940, 42.17.945, 42.17.950, 42.17.955, 42.17.960, 42.17.961, 42.17.962, 42.17.963, 42.17.964, 42.17.965, and 42.17.966; repealing RCW 42.17.131, 42.17.362, 42.17.365, 42.17.375, 42.17.465, 42.17.467, 42.17.469, 42.17.471, 42.17.562, 42.17.620, and 42.17.647; providing an effective date; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2016 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Hunt and Armstrong 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. 2016, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2016, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 58; Nays, 37; Absent, 0; Excused, 3.

Voting yea: Representatives Anderson, Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Driscoll, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Haigh, Hasegawa, Herrera, Hudgins, Hunt, Hunter, Jacks, Kagi, Kelley, Kenney, Kessler, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, 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, Angel, Armstrong, Bailey, Campbell, Carlyle, Chandler, Condotta, Crouse, Dammeier, DeBolt, Ericksen, Fagan, Green, Haler, Hinkle, Johnson, Kirby, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Parker, Pearson, Priest, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh and Warnick.

Excused: Representatives Dickerson, Hope and Hurst.

SECOND SUBSTITUTE HOUSE BILL NO. 2016, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote YEA on Second Substitute House Bill No. 2016.

Norma Smith, 10th District.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 2460 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 15.86.010 and 2002 c 220 s 1 are each amended to read as follows:

The legislature recognizes a public benefit in:

(1) Establishing standards governing the labeling and advertising of ~~((food))~~ agricultural products and ~~((agricultural))~~ commodities as ~~((organically produced))~~ organic products or transitional products;

(2) Providing certification under the ~~((federal organic food production act of 1990, 7 U.S.C. Sec. 6501 et seq., and the rules adopted thereunder))~~ national organic program for agricultural products marketed and labeled using the term "organic" or a derivative of the term "organic;"

(3) Providing access for Washington producers, processors, and handlers to domestic and international markets for organic ~~((food))~~ products; ~~((and))~~

(4) Establishing a state organic program or obtaining federal accreditation as a certifying agent under the ~~((federal organic food production act of 1990, 7 U.S.C. Sec. 6501 et seq., and the rules adopted thereunder))~~ national organic program; and

(5) Establishing a brand name materials list for registration of inputs that comply with national, international, or other organic standards.

Sec. 2. RCW 15.86.020 and 2002 c 220 s 2 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) "Director" means the director of the department of agriculture or the director's designee.

(2) "Organic ~~((food))~~ product" means any agricultural product, in whole or in part, including meat, dairy, and beverage, that is marketed using the term organic or any derivative of organic and that is produced, handled, and processed in accordance with this chapter.

(3) "Producer" means any person or organization who or which grows, raises, or produces an agricultural product.

(4) "Handler" means any person who sells, distributes, or packs organic or transitional products.

(5) "Transitional ~~((food))~~ product" means any ~~((food))~~ agricultural product that ~~((satisfies all of the))~~ meets requirements ~~((of))~~ for organic ~~((food))~~ certification, except ~~((the time requirements as defined in rule))~~ that the organic production areas have not been free of prohibited substances for thirty-six months. Use of prohibited substances must have ceased for at least twelve months prior to the harvest of a transitional product.

(6) "Organic certifying agent" means any third-party certification organization that is recognized by the director as being one which imposes, for certification, standards consistent with this chapter.

(7) "Processor" means any person engaged in the canning, freezing, drying, dehydrating, cooking, pressing, powdering, packaging, baking, heating, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, jarring, or otherwise processing of an organic ~~((food))~~ or transitional product.

(8) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof or assignee for the benefit of creditors.

(9) "Department" means the state department of agriculture.

(10) "Represent" means to hold out as or to advertise.

(11) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media.

(12) "Material" means any substance or mixture of substances that is intended to be used in agricultural production, processing, or handling.

(13) "Fertilizer" means a single or blended substance containing one or more recognized plant nutrients which is used primarily for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth.

(14) "Label" means a display of written, printed, or graphic material on the immediate container of an agricultural product or any such material affixed to any agricultural product or affixed to a bulk container containing an agricultural product, except for package liners or a display of written, printed, or graphic material which contains only information about the weight of the product.

(15) "Labeling" includes all written, printed, or graphic material accompanying an agricultural product at any time or written, printed, or graphic material about the agricultural product displayed at retail stores about the product.

(16) "National organic program" means the program administered by the United States department of agriculture pursuant to 7 C.F.R. Part 205, which implements the federal organic food production act of 1990 (7 U.S.C. Sec. 6501 et seq.).

(17) "Registrant" means the person registering a material on the brand name materials list under the provisions of this chapter.

(18) "Certification" or "certified" means a determination documented by a certificate of organic operation made by a certifying agent that a production or handling operation is in compliance with the national organic program or with international standards.

(19) "Compost" means the product of a managed process through which microorganisms break down plant and animal materials into more available forms suitable for application to the soil.

(20) "Crop production aid" means any substance, material, structure, or device that is used to aid a producer of an agricultural product except for fertilizers and pesticides.

(21) "Livestock production aid" means any substance, material, structure, or device that is used to aid a producer in the production of livestock such as parasiticides, medicines, and feed additives.

(22) "Organic waste-derived material" means grass clippings, leaves, weeds, bark, plantings, prunings, and other vegetative wastes, uncontaminated wood waste from logging and milling operations, food wastes, food processing wastes, and materials derived from these wastes through composting. "Organic waste-derived material" does not include products that contain biosolids as defined in chapter 70.95J RCW.

(23) "Soil amendment" means any substance that is intended to improve the physical characteristics of the soil, except for fertilizers and pesticides.

(24) "Spray adjuvant" means any product intended to be used with a pesticide as an aid to the application or to the effect of the pesticide and that is in a package or container separate from the pesticide. "Spray adjuvant" includes, but is not limited to, wetting agents, spreading agents, deposit builders, adhesives, emulsifying agents, deflocculating agents, and water modifiers or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to its application or to its effect. "Spray adjuvant" does not include products that are only intended to mark the location where a pesticide is applied.

(25) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life or virus, except a virus on or in a living human being or other animal, which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant;

(c) Any substance or mixture of substances intended to be used as a spray adjuvant; and

(d) Any other substances intended for such use as may be named by the director by rule.

(26) "Postharvest material" means any substance, material, structure, or device that is used in the postharvest handling of agricultural products.

(27) "Processing aid" means a substance that is added to a food:

(a) During processing, but is removed in some manner from the food before it is packaged in its finished form;

(b) During processing, is converted into constituents normally present in the food, and does not significantly increase the amount of the constituents naturally found in the food; and

(c) For its technical or functional effect in the processing but is present in the finished food at insignificant levels and does not have any technical or functional effect in that food.

(28) "Manufacturer" means a person that compounds, produces, granulates, mixes, blends, repackages, or otherwise alters the composition of materials.

Sec. 3. RCW 15.86.030 and 2002 c 220 s 3 are each amended to read as follows:

(1) To be labeled, sold, or represented as an organic ((~~food~~) product, a product ((~~shall~~) ~~must~~ be produced under standards established ((~~under RCW 15.86.060~~)) in this chapter or rules adopted pursuant to this chapter. A producer, processor, or handler shall not represent, sell, or offer for sale any ((~~food~~) agricultural product with the representation that the product is ((~~an~~) organic ((~~food~~)) if the producer, processor, or handler knows, or has reason to know, that the ((~~food~~) product has not been produced, processed, or handled in accordance with standards established ((~~under RCW 15.86.060~~)) in this chapter or rules adopted pursuant to this chapter.

(2) The department may conduct evaluations in retail establishments to verify compliance with organic labeling and advertising requirements of this chapter, rules adopted pursuant to this chapter, and the national organic program.

Sec. 4. RCW 15.86.060 and 2002 c 220 s 4 are each amended to read as follows:

(1) The director shall adopt rules, in conformity with chapter 34.05 RCW, as the director believes are appropriate for the adoption of the national organic program ((~~under the federal organic food production act of 1990, 7 U.S.C. Sec. 6501 et seq., and the rules adopted thereunder~~)) and for the proper administration of this chapter.

(2)(a) The director shall issue orders to producers, processors, or handlers whom ((~~he or she~~)) the director finds are violating ((~~any provision of this chapter,~~)) RCW 15.86.030 or 15.86.090 or rules ((~~or regulations~~)) adopted ((~~under~~) pursuant to this chapter, to cease their violations and desist from future violations.

(b) Whenever the director finds that a producer, processor, or handler has committed a violation, the director shall impose on and collect from the violator a civil fine not exceeding the total of ((~~the following amounts~~)):

((~~(a)~~)) (i) The state's estimated costs of investigating and taking appropriate administrative and enforcement actions in respect to the violation; and

((~~(b)~~)) (ii) One thousand dollars.

((~~(3) The director may deny, suspend, or revoke a certification provided for in this chapter if he or she determines that an applicant or certified person has violated this chapter or rules adopted under it.~~))

Sec. 5. RCW 15.86.065 and 2002 c 220 s 7 are each amended to read as follows:

(1) The department is authorized to take such actions, conduct proceedings, and enter orders as permitted or contemplated for a state organic program or certifying agent under the ((~~federal organic food~~

~~production act of 1990, 7 U.S.C. Sec. 6501 et seq., and the rules adopted thereunder)) national organic program.~~

(2) The director may deny, suspend, or revoke a certification provided for in this chapter if the director determines that an applicant or certified person has violated this chapter or rules adopted pursuant to this chapter.

(3) The ((~~state organic~~)) program shall not be inconsistent with the requirements of ((~~7 U.S.C. Sec. 6501 et seq. and the rules adopted thereunder, including 7 C.F.R. Sec. 205.668~~)) the national organic program.

(4) The department shall adopt rules necessary to implement this section.

Sec. 6. RCW 15.86.070 and 2002 c 220 s 5 are each amended to read as follows:

(1) The director may adopt rules establishing a program for certifying producers, processors, and handlers as meeting state, national, or international standards for organic or transitional ((~~food~~) products.

(2) The rules:

(a) May govern, but are not limited to governing:

(i) The number and scheduling of on-site visits, both announced and unannounced, by certification personnel;

(ii) Recordkeeping requirements; and

(iii) The submission of product samples for chemical analysis((~~the rules~~)); and

(b) Shall include a fee schedule that will provide for the recovery of the full cost of the ((~~organic food~~)) program.

(3) All fees collected under this ((~~section~~)) chapter shall be deposited in an account within the agricultural local fund ((~~and~~)). The revenue from such fees shall be used solely for carrying out the provisions of this ((~~section~~)) chapter, and no appropriation is required for disbursement from the fund.

(4) The director may employ such personnel as are necessary to carry out the provisions of this ((~~section~~)) chapter.

((~~(2) The fees established under this section may be increased in excess of the fiscal growth factor as provided in RCW 43.135.055 for the fiscal year ending June 30, 2003.~~))

Sec. 7. RCW 15.86.090 and 2002 c 220 s 6 are each amended to read as follows:

(1) It is unlawful for any person to sell, offer for sale, or process any agricultural product within this state with an organic label unless that person is certified under this chapter by the department or a recognized organic certifying agent.

(2) Subsection (1) of this section shall not apply to:

(a) Final retailers of organic ((~~food~~) products that do not process organic ((~~food~~) products; or

(b) Producers who sell no more than five thousand dollars annually in value of agricultural products directly to consumers.

NEW SECTION. Sec. 8. A new section is added to chapter 15.86 RCW to read as follows:

(1) To be labeled, sold, or represented as transitional products, agricultural products must comply with transitional product standards specified in this chapter and rules adopted pursuant to this chapter, including no application of substances prohibited under the national organic program within one year immediately preceding harvest.

(2) A producer, processor, or handler may not represent, sell, or offer for sale any agricultural product as a transitional product if the producer, processor, or handler knows or has reason to know that the product does not comply with transitional product standards specified in this chapter or rules adopted pursuant to this chapter.

(3)(a) The department may set and collect transitional certification fees, including fees for application for transitional certification, renewal of transitional certification, inspections, and sampling. Collected fees are subject to provisions specified in RCW 15.86.070.

(b) The fee for application for transitional certification is fifty dollars per site in addition to any organic certification application fees established under this chapter. The department may increase this fee by rule as necessary to cover costs of provision of services.

(4) The department may conduct evaluations in retail establishments to verify compliance with transitional labeling and advertising requirements of this chapter, rules adopted pursuant to this chapter, and the national organic program.

NEW SECTION. Sec. 9. A new section is added to chapter 15.86 RCW to read as follows:

(1) The department may establish a brand name materials list of registered materials that are approved for use in organic production, processing, or handling in accordance with the national organic program or international standards. Registration of a material on the brand name materials list is voluntary. While registration is not required for a material to be used or sold in this state, registration is necessary for a material to be included on the brand name materials list.

(2)(a) Manufacturers of materials may submit an application to the department for registration of a material on the brand name materials list. Applications must be made on a form designated by the department, and must include:

- (i) The name and address of the manufacturer;
- (ii) The name and address of the manufacturer's representative making the representations in the application;
- (iii) The brand name that the material is sold under;
- (iv) A copy of the labeling accompanying the material and a statement of all claims to be made for it, including the directions and precautions for use;
- (v) The complete formula of the material, including the active and inert ingredients;
- (vi) A description of the manufacturing process, including all materials used for the extraction and synthesis of the material, if appropriate;
- (vii) The intended uses of the product;
- (viii) The source or supplier of all ingredients;
- (ix) The required fee for registration or renewal; and
- (x) Any additional information required by rule.

(b) If any change to the information provided in an application occurs at any time after an application is submitted, the registrant must immediately submit corrected information to the department for review. Failure by the registrant to provide corrections to information provided in the application may result in suspension or revocation of the registration.

(c) By submitting an application for registration on the brand name materials list, the applicant expressly consents to jurisdiction of the state of Washington in all matters related to the registration.

(d) Applications for registration on the brand name materials list are governed by chapter 34.05 RCW.

(3)(a) By applying for registration on the brand name materials list, the registrant expressly grants to the department or other organic certifying agent or inspection agent approved by the national organic program the right to enter the registrant's premises during normal business hours or at other reasonable times to:

- (i) Inspect the portion of the premises where the material, inputs, or ingredients are stored, produced, manufactured, packaged, or labeled;
- (ii) Inspect records related to the sales, storage, production, manufacture, packaging, or labeling of the material, inputs, or ingredients; and
- (iii) Obtain samples of materials, inputs, and ingredients.

(b) Should the registrant refuse to allow inspection of the premises or records or fail to provide samples, the registration on the brand name materials list is cancelled. The department shall deny applications for registration where the registrant refuses to allow the

inspection of the premises or records or fails to provide samples as provided in this section.

(c) Required inspections may be conducted by department personnel, by an organic certifying agent, or by another inspection agent approved by the national organic program. The department may establish by rule evaluation criteria for review of inspection reports conducted by an organic certifying agent or inspection agent approved by the national organic program.

(4) The director may adopt rules necessary to implement the brand name materials list, including but not limited to:

- (a) Fees related to registration;
- (b) The number and scheduling of inspections, both announced and unannounced;
- (c) Recordkeeping requirements;
- (d) Additional application requirements;
- (e) Labeling of registered materials; and
- (f) Chemical analysis of material samples.

(5)(a) The department may establish a brand name materials list to register materials approved for use under:

- (i) National organic program standards; or
- (ii) International or additional organic standards.

(b) The director may review materials registered on the brand name materials list as approved for use under the national organic program for compliance with specific international or additional organic standards as designated by rule. A registered material that complies with a specific international or additional organic standard may also be registered as approved under that standard.

(6) Registration of a material on the brand name materials list under this chapter does not guarantee acceptance for use in organic production or processing by organic certifying agents other than the department. The department is not liable for any losses or damage that occurs as a result of use of a material registered on the brand name materials list.

(7) The director may deny, suspend, or revoke a registration on the brand name materials list if the director determines that a registrant has:

- (a) Failed to meet the registration criteria established in this chapter or rules adopted pursuant to this chapter; or
- (b) Violated any other provision of this chapter or rules adopted pursuant to this chapter.

NEW SECTION. Sec. 10. A new section is added to chapter 15.86 RCW to read as follows:

(1) The department is authorized to set and collect fees for application for registration, renewal of registration, inspections, and sampling for the brand name materials list. Collected fees are subject to provisions specified in RCW 15.86.070. The department may increase by rule fees established in this section as necessary to cover costs of provision of services.

(2)(a) The application fee for registration of a pesticide, spray adjuvant, processing aid, livestock production aid, or postharvest material is:

- (i) Five hundred dollars per material for an initial registration; and
- (ii) Three hundred dollars per material for renewing a registration.

(b) The application fee for registration of a fertilizer, soil amendment, organic waste-derived material, compost, animal manure, or crop production aid is:

- (i) Four hundred dollars per material for an initial registration; and
- (ii) Two hundred dollars per material for renewing a registration.

(3)(a) Renewal applications postmarked after October 31st must include, in addition to the renewal fee, a late fee of:

- (i) One hundred dollars per material for applications postmarked after October 31st;
- (ii) Two hundred dollars per material for applications postmarked after November 30th; and

(iii) Three hundred dollars per material for applications postmarked after December 31st.

(b) Renewal applications received after February 2nd will not be accepted, and applicants must reapply as new applicants.

(4) Inspections and any additional visit that must be arranged must be billed at forty dollars per hour plus travel costs and mileage, charged at the rate established by the office of financial management.

(5) Chemical analysis of material samples, if required for registration or requested by the applicant, must be billed at a rate established by the laboratory services division of the department of agriculture or at cost for analyses performed by another laboratory.

(6) Requests for expedited reviews may be submitted and, if approved, must be billed at forty dollars per hour.

(7) The department may assess compliance with an international or additional organic standard for materials registered on the brand name materials list as approved for use under the national organic program. Requests for additional assessments of materials approved under the national organic program must be billed at a rate of one hundred dollars per product for each standard."

On page 1, line 1 of the title, after "products;" strike the remainder of the title and insert "amending RCW 15.86.010, 15.86.020, 15.86.030, 15.86.060, 15.86.065, 15.86.070, and 15.86.090; adding new sections to chapter 15.86 RCW; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 2460 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Smith and Blake 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. 2460, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2460, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Representatives Dickerson, Hope and Hurst.

HOUSE BILL NO. 2460, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2466 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.04.215 and 2005 c 200 s 1 are each amended to read as follows:

"Ignition interlock device" means breath alcohol analyzing ignition equipment or other biological or technical device certified in conformance with section 2 of this act and rules adopted by the state patrol and designed to prevent a motor vehicle from being operated by a person who has consumed an alcoholic beverage. (~~The state patrol shall by rule provide standards for the certification, installation, repair, and removal of the devices.~~)

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.43 RCW to read as follows:

(1) The state patrol shall by rule provide standards for the certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices, as defined under RCW 46.04.215, and equipment as outlined under this section, and may inspect the records and equipment of manufacturers and vendors during regular business hours for compliance with statutes and rules and may suspend or revoke certification for any noncompliance. The state patrol may only inspect ignition interlock devices in the vehicles of customers for proper installation and functioning when installation is being done at the vendors' place of business.

(2)(a) When a certified service provider or individual installer of ignition interlock devices is found to be out of compliance, the installation privileges of that certified service provider or individual installer may be suspended or revoked until the certified service provider or individual installer comes into compliance. During any suspension or revocation period, the certified service provider or individual installer is responsible for notifying affected customers of any changes in their service agreement.

(b) A certified service provider or individual installer whose certification is suspended or revoked for noncompliance has a right to an administrative hearing under chapter 34.05 RCW to contest the suspension or revocation, or both. For the administrative hearing, the procedure and rules of evidence are as specified in chapter 34.05 RCW, except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the receipt of the notice of suspension or revocation.

(3)(a) An ignition interlock device must employ fuel cell technology. For the purposes of this subsection, "fuel cell technology" consists of the following electrochemical method: An electrolyte designed to oxidize the alcohol and release electrons to be collected by an active electrode; a current flow is generated within the electrode proportional to the amount of alcohol oxidized on the fuel cell surface; and the electrical current is measured and reported as breath alcohol concentration. Fuel cell technology is highly specific for alcohols.

(b) To be certified, an ignition interlock device must:

(i) Meet or exceed the minimum test standards according to rules adopted by the state patrol. Only a notarized statement from a laboratory that is certified by the international organization of standardization and is capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards. The

notarized statement must include the name and signature of the person in charge of the tests under the following statement:

"Two samples of (model name), manufactured by (manufacturer), were tested by (laboratory) certified by the Internal Organization of Standardization. They do meet or exceed all specifications listed in the Federal Register, Volume 71, Number 31 (57 FR 11772), Breath Alcohol Ignition Interlock Devices (BAIID), NHTSA 2005-23470."; and

(ii) Be maintained in accordance with the rules and standards adopted by the state patrol.

NEW SECTION. Sec. 3. A new section is added to chapter 43.43 RCW to read as follows:

For the purposes of section 2 of this act, companies not using ignition interlock devices that employ fuel cell technology as of the effective date of this act shall have five years from the effective date of this act to begin using ignition interlock devices that employ fuel cell technology."

On page 1, line 1 of the title, after "devices;" strike the remainder of the title and insert "amending RCW 46.04.215; and adding new sections to chapter 43.43 RCW."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2466 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Goodman 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 Substitute House Bill No. 2466, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2466, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Representatives Dickerson, Hope and Hurst.

SUBSTITUTE HOUSE BILL NO. 2466, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2481 with the following amendment:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that the utilization of forest biomass materials located on state lands will assist in achieving the purposes of the forest biomass energy demonstration project under RCW 43.30.835, facilitate and support the emerging forest biomass market and clean energy economy, and enable the department to encourage biomass energy development on state trust lands for the trust land's potential long-term benefits to trust beneficiaries. The legislature finds that biomass utilization on state forest lands must be accomplished in a manner that retains organic components of the forest necessary to restore or sustain forest ecological functions.

NEW SECTION. Sec. 2. (1) The department may maintain a list of all potential sources of forest biomass on state lands for the purposes of identifying and making forest biomass, as defined in RCW 79.02.010, available for sale, exploration, collection, processing, storage, stockpiling, and conversion into energy, biofuels, for use in a biorefinery, or any other similar use. Prior to entering an agreement authorized by section 3(1) or 4 of this act, the department shall complete an inventory of the available biomass in the area that will be subject to the agreement, except that no inventory will be required as a prerequisite for demonstration projects authorized pursuant to RCW 43.30.835. The inventory must contain, at a minimum, an estimated amount of the forest biomass available in the area that will be subject to the agreement and a determination of the ecological and operational sustainability of the volumetric limit established by the agreement under section 3(5) of this act.

(2) The data developed for each inventoried area will be compiled for the list authorized by this section. In order to utilize the list to limit or terminate any agreement authorized under this act, the department must determine that the overall supply of forest biomass in a region or watershed has been reduced to a point such that further exploration and collection of forest biomass may not be ecologically or operationally sustainable or might otherwise threaten long-term forest health.

NEW SECTION. Sec. 3. (1) The department is authorized to enter forest biomass supply contracts on terms and conditions acceptable to the department for terms of up to five years, except as provided in subsection (4) of this section, for the purpose of providing a supply of forest biomass during the term of the contract except as the term of the contract may be limited under subsection (2) of this section, provided that such a contract must terminate automatically upon the removal of the agreed volume of biomass and the completion of other conditions of the contract.

(2) The department may authorize the sale of forest biomass in a contract for the sale of valuable materials under chapter 79.15 RCW provided that the department complies with the provisions of this chapter and: (a) Requires a separate bid and selects an apparent highest bidder for the forest biomass separately from the sale of valuable materials; (b) expressly includes forest biomass as an element of the sale of the valuable materials to be sold in the sales contract; or (c) a combination of (a) and (b) of this subsection. The term of the contract for the removal of biomass, if the sale is made in conformance with this subsection, must not exceed the term of the contract for valuable materials sold under chapter 79.15 RCW.

(3) The department may: (a) Enter into direct sales contracts for forest biomass, without public auction, based upon procedures adopted by the board to ensure competitive market prices and

accountability; or (b) enter into contracts for forest biomass at public auction or by sealed bid to the highest bidder in a manner consistent with the sale procedures established for the sale of valuable materials in chapter 79.15 RCW or as may be adopted by the board.

(4) In the event a contracting entity makes a qualifying capital investment of fifty million dollars or more, the department may enter into an agreement for up to fifteen years. Such an agreement must include provisions that are periodically adjusted for market conditions. In addition, the conditions of the contract must include provisions that allow the department, when in the best interest of trust beneficiaries, to maintain the availability of biomass resources on state lands to existing pulp and paper operations or other existing biomass processing operations that are using such resources, in quantities typical for the period of five years preceding the effective date of this section. For the purposes of this section, "qualifying capital investment" means a planned and committed investment at the time the contract is set with the requirement that at least fifty million dollars be invested before the removal of any biomass under the contract.

(5) The department must specify in each contract an annual volumetric limit of the total cubic volume or tons of forest biomass to be supplied from a specific unit, geographically delineated area, or region within a watershed or watersheds on an ecologically and operationally sustainable basis. The department shall adopt general procedures for making the biomass supply availability determinations under this subsection. The procedures must be written to ensure that biomass utilization on forest lands managed by the department is accomplished in a manner that retains organic components of the forest necessary to restore or sustain forest ecological functions. The department shall develop utilization standards and operational methods in recognition of the variability of on-site conditions. The department may unilaterally amend the volume to be supplied by providing the contracting party with a minimum of six months notice prior to reducing the contract volume to be supplied if the department determines, under section 2 of this act, that the available supply has been reduced to a point such that further removal of forest biomass may not be ecologically or operationally sustainable or may adversely affect long-term forest health.

(6) At the expiration of the contract term, the department may renew the contract for up to three additional five year periods on terms and conditions acceptable to the department, if the department finds: (a) An ecologically and operationally sustainable supply of forest biomass is available for the term of the contract; (b) the payment under the contract represents the fair market value at the time of the renewal; and (c) the purchaser agrees to the estimated amount of biomass material available.

(7) Where the department sells forest biomass in a contract for sale of valuable materials under subsection (2) of this section, any valuable material conveyed as timber in such a contract must count toward the achievement of annual or decadal targets developed in the sustainable timber harvest calculation required by RCW 79.10.320, or similar targets for timber harvest volume, even where the purchaser uses that material as a biomass energy feedstock. All other biomass volume conveyed as authorized in this chapter must not be counted toward such sustainable timber harvest targets.

(8) All contractors and their operations authorized under this section shall comply with all applicable state and federal laws and regulations.

NEW SECTION. Sec. 4. The department is authorized to lease state lands for the purpose of the sale, exploration, collection, processing, storage, stockpiling, and conversion of biomass into energy or biofuels, the development of a biorefinery, or for any other resource use derived from biomass if the department is able to obtain a fair market rental return to the state or the appropriate constitutional or statutory trust and if the lease is in the best interest of the state and the affected trust, as follows:

(1) Leases authorized under this chapter may be entered into by public auction, in accordance with the provisions of RCW 79.13.140, or by negotiation.

(2) All leases must contain such terms and conditions as may be prescribed by the department in accordance with the provision of this act and to ensure that removal of forest biomass is ecologically and operationally sustainable. Leases authorized under this act may be for a term of no more than fifty years.

(3) For leases that involve the development of biomass processing, biofuel manufacturing, or biomass energy production facilities, the department may include provisions for reduced rent until an approved plan of development is completed and the facility is operational, provided that provisions are included to require: (a) Adequate assurances to protect the department's interest in a future rental income stream; (b) the demonstration of reasonable progress consistent with an approved plan of development; and (c) a lump sum payment to the department in the amount of the difference between the fair market rent and the reduced rent, if the approved plan of development is not completed in the time required in the plan.

(4) The department may require the payment of production rent or other compensation for the use of the land and biomass materials on the land. If the department is not entering a supply contract under section 3 of this act for any forest biomass to be supplied for the lease purposes from the leased land, then the department must require a royalty payment for the contribution to value of any product created by the lessee that is associated with forest biomass removed from the leased land in an amount fixed by the board.

(5) All lessees and their operations authorized under this section shall comply with all applicable state and federal laws and regulations.

NEW SECTION. Sec. 5. (1) For the purpose of improving forest health on state trust lands, and to better clarify the relationship of forest biomass with the by-products of forest health and fuel reduction treatments that have been traditionally utilized for other products, the department of natural resources shall evaluate how the supply agreements in sections 3 and 4 of this act could be utilized to sustain or create rural jobs and timber manufacturing infrastructure, and to sell state timber to traditional types of timber purchasers. The department shall report its findings to the appropriate committees of the legislature by December 15, 2010, and the evaluation must at a minimum identify how such supply agreements could:

(a) Ensure the department of natural resources meets its fiduciary responsibility to the state's trust beneficiaries;

(b) Restore or sustain a competitive market for state timber sales;

(c) Generate returns for the trust that are commensurate with fluctuating market prices; and

(d) Ensure environmental compliance with all pertinent state and federal laws, and provide for ecologically and operationally sustainable biomass removal.

(2) For the purposes of proving the concepts evaluated in this section, the department may, in addition to the authorities granted in section 3 of this act, establish a five-year forest health and fuel reduction supply agreement demonstration project. Solicitation of private industry partners for such a project must be competitive, must focus on areas where traditional forest products manufacturing infrastructure and rural jobs have been lost, and should consider prioritizing partners utilizing materials for both traditional forest products and biomass energy conversion.

Sec. 6. RCW 79.02.010 and 2004 c 199 s 201 are each amended to read as follows:

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

(1) "Aquatic lands" means all state-owned tidelands, shorelands, harbor areas, and the beds of navigable waters as defined in (~~chapter 79.90~~) RCW 79.105.060 that are administered by the department.

(2) "Board" means the board of natural resources.

(3) "Commissioner" means the commissioner of public lands.

(4) "Community and technical college forest reserve lands" means lands managed under RCW 79.02.420.

(5) "Department" means the department of natural resources.

(6) "Improvements" means anything considered a fixture in law placed upon or attached to lands administered by the department that has changed the value of the lands or any changes in the previous condition of the fixtures that changes the value of the lands.

(7) "Land bank lands" means lands acquired under RCW 79.19.020.

(8) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of a federal, state, or local governmental unit, however designated.

(9) "Public lands" means lands of the state of Washington administered by the department including but not limited to state lands, state forest lands, and aquatic lands.

(10) "State forest lands" means lands acquired under RCW 79.22.010, 79.22.040, and 79.22.020.

(11) "State lands" includes:

(a) School lands, that is, lands held in trust for the support of the common schools;

(b) University lands, that is, lands held in trust for university purposes;

(c) Agricultural college lands, that is, lands held in trust for the use and support of agricultural colleges;

(d) Scientific school lands, that is, lands held in trust for the establishment and maintenance of a scientific school;

(e) Normal school lands, that is, lands held in trust for state normal schools;

(f) Capitol building lands, that is, lands held in trust for the purpose of erecting public buildings at the state capital for legislative, executive, and judicial purposes;

(g) Institutional lands, that is, lands held in trust for state charitable, educational, penal, and reformatory institutions; and

(h) Land bank, escheat, donations, and all other lands, except aquatic lands, administered by the department that are not devoted to or reserved for a particular use by law.

(12) "Valuable materials" means any product or material on the lands, such as forest products, forage or agricultural crops, stone, gravel, sand, peat, and all other materials of value except: (a) Mineral, coal, petroleum, and gas as provided for under chapter 79.14 RCW; and (b) forest biomass as provided for under chapter 79.-- RCW (the new chapter created in section 14 of this act).

(13)(a) "Forest biomass" means the by-products of: Current forest management activities; current forest protection treatments prescribed or permitted under chapter 76.04 RCW; or the by-products of forest health treatment prescribed or permitted under chapter 76.06 RCW.

(b) "Forest biomass" does not include wood pieces that have been treated with chemical preservatives such as: Creosote, pentachlorophenol, or copper-chrome-arsenic; wood from existing old growth forests; wood required to be left on-site under chapter 76.09 RCW, the state forest practices act; and implementing rules, and other legal and contractual requirements; or municipal solid waste.

Sec. 7. RCW 43.30.020 and 2009 c 163 s 6 are each amended to read as follows:

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

(1) "Administrator" means the administrator of the department of natural resources.

(2) "Agency" and "state agency" means any branch, department, or unit of the state government, however designated or constituted.

(3) "Board" means the board of natural resources.

(4) "Commissioner" means the commissioner of public lands.

(5) "Department" means the department of natural resources.

~~(6) ("Forest biomass" means the by-products of: Current forest practices prescribed or permitted under chapter 76.09 RCW; current forest protection treatments prescribed or permitted under chapter 76.04 RCW; or the by-products of forest health treatments prescribed or permitted under chapter 76.06 RCW. "Forest biomass" does not include wood pieces that have been treated with chemical preservatives such as: Creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old growth forests, except wood removed for forest health treatments under chapter 76.06 RCW and RCW 79.15.540; wood required by chapter 76.09 RCW for large woody debris recruitment; or municipal solid waste.~~

~~(7)) "Supervisor" means the supervisor of natural resources.~~

Sec. 8. RCW 76.06.180 and 2007 c 480 s 7 are each amended to read as follows:

(1) Prior to issuing a forest health hazard warning or forest health hazard order, the commissioner shall consider the findings and recommendations of the forest health technical advisory committee and shall consult with county government officials, forest landowners and forest land managers, consulting foresters, and other interested parties to gather information on the threat, opportunities or constraints on treatment options, and other information they may provide. The commissioner, or a designee, shall conduct a public hearing in a county within the geographical area being considered.

(2) The commissioner of public lands may issue a forest health hazard warning when he or she deems such action is necessary to manage the development of a threat to forest health or address an existing threat to forest health. A decision to issue a forest health hazard warning may be based on existing forest stand conditions and:

(a) The presence of an uncharacteristic insect or disease outbreak that has or is likely to (i) spread to multiple forest ownerships and cause extensive damage to forests; or (ii) significantly increase forest fuel that is likely to further the spread of uncharacteristic fire;

(b) When, due to extensive physical damage from wind or ice storm or other cause, there are (i) insect populations building up to large scale levels; or (ii) significantly increased forest fuels that are likely to further the spread of uncharacteristic fire; or

(c) When otherwise determined by the commissioner to be appropriate.

(3) The commissioner of public lands may issue a forest health hazard order when he or she deems such action is necessary to address a significant threat to forest health. A decision to issue a forest health hazard order may be based on existing forest stand conditions and:

(a) The presence of an uncharacteristic insect or disease outbreak that has (i) spread to multiple forest ownerships and has caused and is likely to continue to cause extensive damage to forests; or (ii) significantly increased forest fuels that are likely to further the spread of uncharacteristic fire;

(b) When, due to extensive physical damage from wind or ice storm or other cause (i) insect populations are causing extensive damage to forests; or (ii) significantly increased forest fuels are likely to further the spread of uncharacteristic fire;

(c) Insufficient landowner action under a forest health hazard warning; or

(d) When otherwise determined by the commissioner to be appropriate.

(4) A forest health hazard warning or forest health hazard order shall be issued by use of a commissioner's order. General notice of the commissioner's order shall be published in a newspaper of general circulation in each county within the area covered by the order and on the department's web site. The order shall specify the boundaries of the area affected, including federal and tribal lands, the forest stand conditions that would make a parcel subject to the provisions of the order, and the actions landowners or land managers should take to reduce the hazard. If the forest health hazard warning or order relates to land managed by the department, the warning or order may also

contain provisions for the department's utilization of any forest biomass pursuant to chapter 79.-- RCW (the new chapter created in section 14 of this act).

(5) Written notice of a forest health hazard warning or forest health hazard order shall be provided to forest landowners of specifically affected property.

(a) The notice shall set forth:

(i) The reasons for the action;

(ii) The boundaries of the area affected, including federal and tribal lands;

(iii) Suggested actions that should be taken by the forest landowner under a forest health hazard warning or the actions that must be taken by a forest landowner under a forest health hazard order;

(iv) The time within which such actions should or must be taken;

(v) How to obtain information or technical assistance on forest health conditions and treatment options;

(vi) The right to request mitigation under subsection (6) of this section and appeal under subsection (7) of this section;

(vii) These requirements are advisory only for federal and tribal lands.

(b) The notice shall be served by personal service or by mail to the latest recorded real property owner, as shown by the records of the county recording officer as defined in RCW 65.08.060. Service by mail is effective on the date of mailing. Proof of service shall be by affidavit or declaration under penalty of perjury.

(6) Forest landowners who have been issued a forest health hazard order under subsection (5) of this section may apply to the department for the remission or mitigation of such order. The application shall be made to the department within fifteen days after notice of the order has been served. Upon receipt of the application, the department may remit or mitigate the order upon whatever terms the department in its discretion deems proper, provided the department deems the remission or mitigation to be in the best interests of carrying out the purposes of this chapter. The department may ascertain the facts regarding all such applications in such reasonable manner and under such rule as it deems proper.

(7) Forest landowners who have been issued a forest health hazard order under subsection (5) of this section may appeal the order to the forest practices appeals board.

(a) The appeal shall be filed within thirty days after notice of the order has been served, unless application for mitigation has been made to the department. When such an application for mitigation is made, such appeal shall be filed within thirty days after notice of the disposition of the application for mitigation has been served.

(b) The appeal must set forth:

(i) The name and mailing address of the appellant;

(ii) The name and mailing address of the appellant's attorney, if any;

(iii) A duplicate copy of the forest health hazard order;

(iv) A separate and concise statement of each error alleged to have been committed;

(v) A concise statement of facts upon which the appellant relies to sustain the statement of error; and

(vi) A statement of the relief requested.

(8) A forest health hazard order issued under subsection (5) of this section is effective thirty days after date of service unless application for remission or mitigation is made or an appeal is filed. When an application for remission or mitigation is made, the order is effective thirty days after notice setting forth the disposition of the application is served unless an appeal is filed from such disposition. Whenever an appeal of the order is filed, the order shall become effective only upon completion of all administrative and judicial review proceedings and the issuance of a final decision confirming the order in whole or in part.

(9) Upon written request, the department may certify as adequate a forest health management plan developed by a forest landowner, before or in response to a forest health hazard warning or forest health hazard order, if the plan is likely to achieve the desired result and the terms of the plan are being diligently followed by the forest landowner. The certification of adequacy shall be determined by the department in its sole discretion, and be provided to the requestor in writing.

Sec. 9. RCW 79.15.100 and 2004 c 177 s 5 are each amended to read as follows:

(1) Valuable materials may be sold separately from the land as a "lump sum sale" or as a "scale sale."

(a) "Lump sum sale" means any sale offered with a single total price applying to all the material conveyed.

(b) "Scale sale" means any sale offered with per unit prices to be applied to the material conveyed.

(2) Payment for lump sum sales must be made as follows:

(a) Lump sum sales under five thousand dollars appraised value require full payment on the day of sale.

(b) Lump sum sales appraised at over five thousand dollars but under one hundred thousand dollars may require full payment on the day of sale.

(c) Lump sum sales requiring full payment on the day of sale may be paid in cash or by certified check, cashier's check, bank draft, or money order, all payable to the department.

(3) Except for sales paid in full on the day of sale or sales with adequate bid bonds, an initial deposit not to exceed twenty-five percent of the actual or projected purchase price shall be made on the day of sale.

(a) Sales with bid bonds are subject to the day of sale payment and replacement requirements prescribed by RCW 79.15.110.

(b) The initial deposit must be maintained until all contract obligations of the purchaser are satisfied. However, all or a portion of the initial deposit may be applied as the final payment for the valuable materials in the event the department determines that adequate security exists for the performance or fulfillment of any remaining obligations of the purchaser under the sale contract.

(4) Advance payments or other adequate security acceptable to the department is required for valuable materials sold on a scale sale basis or a lump sum sale not requiring full payment on the day of sale.

(a) The purchaser must notify the department before any operation takes place on the sale site.

(b) Upon notification as provided in (a) of this subsection, the department must require advanced payment or may allow purchasers to submit adequate security.

(c) The amount of advanced payments or security must be determined by the department and must at all times equal or exceed the value of timber cut and other valuable materials processed or removed until paid for.

(d) Security may be bank letters of credit, payment bonds, assignments of savings accounts, assignments of certificates of deposit, or other methods acceptable to the department as adequate security.

(5) All valuable material must be removed from the sale area within the period specified in the contract.

(a) The specified period may not exceed five years from date of purchase except for stone, sand, gravel, fill material, or building stone.

(b) The specified period for stone, sand, gravel, fill material, or building stone may not exceed thirty years.

(c) In all cases, any valuable material not removed from the land within the period specified in the contract reverts to the state. The department may utilize any remaining forest biomass in accordance with chapter 79.-- RCW (the new chapter created in section 14 of this act).

(6) The department may extend a contract beyond the normal termination date specified in the sale contract as the time for removal of valuable materials when, in the department's judgment, the purchaser is acting in good faith and endeavoring to remove the materials. The extension is contingent upon payment of the fees specified below.

(a) The extended time for removal shall not exceed:

(i) Forty years from date of purchase for stone, sand, gravel, fill material, or building stone;

(ii) A total of ten years beyond the original termination date for all other valuable materials.

(b) An extension fee fixed by the department will be charged based on the estimated loss of income per acre to the state resulting from the granting of the extension plus interest on the unpaid portion of the contract. The board must periodically fix and adopt by rule the interest rate, which shall not be less than six percent per annum.

(c) The sale contract shall specify:

(i) The applicable rate of interest as fixed at the day of sale and the maximum extension payment; and

(ii) The method for calculating the unpaid portion of the contract upon which interest is paid.

(d) The minimum extension fee is fifty dollars per extension plus interest on the unpaid portion of the contract.

(e) Moneys received for any extension must be credited to the same fund in the state treasury as was credited the original purchase price of the valuable material sold.

(7) The department may, in addition to any other securities, require a performance security to guarantee compliance with all contract requirements. The security is limited to those types listed in subsection (4) of this section. The value of the performance security will, at all times, equal or exceed the value of work performed or to be performed by the purchaser.

(8) The department does not need to comply with the provisions of this chapter for forest biomass except as described in the provisions of chapter 79.-- RCW (the new chapter created in section 14 of this act). Forest biomass may not be included in any sales contract authorized under this chapter unless the department has complied with the provisions of chapter 79.-- RCW (the new chapter created in section 14 of this act).

(9) The provisions of this section apply unless otherwise provided by statute.

Sec. 10. RCW 79.15.220 and 2001 c 250 s 14 are each amended to read as follows:

When the department finds valuable materials on state land that are damaged by fire, wind, flood, or from any other cause, it shall determine if the salvage of the damaged valuable materials is in the best interest of the trust for which the land is held, which may include the salvage of forest biomass under chapter 79.-- RCW (the new chapter created in section 14 of this act). If salvaging the valuable materials is in the best interest of the trust, the department shall proceed to offer the valuable materials for sale. The valuable materials, when offered for sale, must be sold in the most expeditious and efficient manner as determined by the department. In determining if the sale is in the best interest of the trust the department shall consider the net value of the valuable materials and relevant elements of the physical and social environment.

Sec. 11. RCW 79.15.510 and 2009 c 418 s 2 are each amended to read as follows:

(1) The department may establish a contract harvesting program for directly contracting for the removal of timber and other valuable materials from state lands and for conducting silvicultural treatments consistent with RCW 79.15.540.

(2) The contract requirements must be compatible with the office of financial management's guide to public service contracts.

(3) The department may not use contract harvesting for more than twenty percent of the total annual volume of timber offered for sale.

However, volume removed primarily to address an identified forest health issue under RCW 79.15.540 may not be included in calculating the ~~((ten [twenty] percent))~~ annual limit of contract harvesting sales. Forest biomass resulting from harvesting to address an identified forest health issue under RCW 79.15.540 may be utilized in accordance with chapter 79.-- RCW (the new chapter created in section 14 of this act).

Sec. 12. RCW 79.15.510 and 2004 c 218 s 6 are each amended to read as follows:

(1) The department may establish a contract harvesting program for directly contracting for the removal of timber and other valuable materials from state lands and for conducting silvicultural treatments consistent with RCW 79.15.540.

(2) The contract requirements must be compatible with the office of financial management's guide to public service contracts.

(3) The department may not use contract harvesting for more than ten percent of the total annual volume of timber offered for sale. However, volume removed primarily to address an identified forest health issue under RCW 79.15.540 may not be included in calculating the ~~((ten percent))~~ annual limit of contract harvesting sales. Forest biomass resulting from harvesting to address an identified forest health issue under RCW 79.15.540 may be utilized in accordance with chapter 79.-- RCW (the new chapter created in section 14 of this act).

NEW SECTION. Sec. 13. The department of natural resources must conduct a survey of scientific literature regarding the carbon neutrality of forest biomass. The department must submit the survey results with any findings and recommendations to the appropriate committees of the legislature by December 15, 2010.

This section expires January 1, 2011.

NEW SECTION. Sec. 14. Sections 1 through 5 of this act constitute a new chapter in Title 79 RCW.

NEW SECTION. Sec. 15. Section 11 of this act expires January 1, 2014.

NEW SECTION. Sec. 16. Section 12 of this act takes effect January 1, 2014."

On page 1, line 2 of the title, after "agreements;" strike the remainder of the title and insert "amending RCW 79.02.010, 43.30.020, 76.06.180, 79.15.100, 79.15.220, 79.15.510, and 79.15.510; adding a new chapter to Title 79 RCW; creating a new section; providing an effective date; and providing expiration dates."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2481 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 2481, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2481, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 1; Absent, 0; Excused, 3.

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

Voting nay: Representative Anderson.

Excused: Representatives Dickerson, Hope and Hurst.

SECOND SUBSTITUTE HOUSE BILL NO. 2481, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2541 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that sustainably managed commercial forestry produces jobs and revenue while also providing clean water, clean air, renewable energy, wildlife habitat, open space, and carbon storage, among other ecological values. For these reasons, maintaining a base of forest lands that may be utilized for sustainably managed commercial forestry is of utmost importance to the state.

(2) The legislature finds that the promotion and fostering of the economic success of the forest products industry with the goal of keeping sustainably managed forestry as a priority land use, and helping to secure the timber managing, growing, harvesting, transporting, and manufacturing jobs is made possible by a vibrant working forest land base.

(3) The legislature further finds that maintaining sustainable working forests is important for the quality of life of all Washingtonians, and that sustainable forest practices can help to maintain and restore the vitality of Washington's communities while also helping to preserve Washington's natural landscapes and ecosystems.

(4) The legislature further finds that it is necessary to assist landowners in gaining access to additional sources of revenue, such as emerging ecosystem services markets, and to help landowners diversify their incomes, improve the ecological functions of their lands, and pass their lands and the lands' associated benefits to future generations.

(5) The legislature further finds that the conservation and restoration of forest ecosystems provide services to the residents of the state that help improve water and habitat quality, help avoid carbon emissions, help address impacts associated with climate change, and help natural resources adapt to these impacts.

(6) The legislature further finds that ecosystem services markets can lead to efficient, innovative, and effective conservation and restoration actions and facilitate improved integration of public and private investment.

(7) Therefore, it is the intent of the legislature to develop tools to facilitate small and industrial forest landowners' access to market capital from existing and emerging ecosystem services markets.

(8) The legislature further intends to enable forest landowners who provide ecosystem services access to financing to protect, restore, and maintain the ecological values provided by protection of public resources.

NEW SECTION. Sec. 2. A new section is added to chapter 76.44 RCW to read as follows:

The legislature finds that there are many issues facing the forest sector, such as climate change, forest health and fire, carbon accounting, habitat and diversity, timber and water supplies, economic competitiveness, and the economic health of forest dependent communities. Enhancing the capability to effectively address these forest issues is critical to the state of Washington. To meet this need, the University of Washington school of forest resources will continue to work with the various interests concerned with the state's forest resources, including the legislature, state and federal governments, environmental organizations, local communities, the timber industry, and tribes, to improve these entities' ability to competitively recruit, educate, and train a high quality workforce.

Sec. 3. RCW 76.09.010 and 1999 sp.s. c 4 s 901 are each amended to read as follows:

(1) The legislature hereby finds and declares that the forest land resources are among the most valuable of all resources in the state; that a viable forest products industry is of prime importance to the state's economy; that it is in the public interest for public and private commercial forest lands to be managed consistent with sound policies of natural resource protection; that coincident with maintenance of a viable forest products industry, it is important to afford protection to forest soils, fisheries, wildlife, water quantity and quality, air quality, recreation, and scenic beauty.

(2) The legislature further finds and declares it to be in the public interest of this state to create and maintain through the adoption of this chapter a comprehensive statewide system of laws and forest practices rules which will achieve the following purposes and policies:

(a) Afford protection to, promote, foster and encourage timber growth, and require such minimum reforestation of commercial tree species on forest lands as will reasonably utilize the timber growing capacity of the soil following current timber harvest;

(b) Afford protection to forest soils and public resources by utilizing all reasonable methods of technology in conducting forest practices;

(c) Recognize both the public and private interest in the profitable growing and harvesting of timber;

(d) Promote efficiency by permitting maximum operating freedom consistent with the other purposes and policies stated herein;

(e) Provide for regulation of forest practices so as to avoid unnecessary duplication in such rules;

(f) Provide for interagency input and intergovernmental and tribal coordination and cooperation;

(g) Achieve compliance with all applicable requirements of federal and state law with respect to nonpoint sources of water pollution from forest practices;

(h) To consider reasonable land use planning goals and concepts contained in local comprehensive plans and zoning regulations;

(i) Foster cooperation among managers of public resources, forest landowners, Indian tribes and the citizens of the state; ~~(and)~~

(j) Develop a watershed analysis system that addresses the cumulative effect of forest practices on, at a minimum, the public resources of fish, water, and public capital improvements of the state and its political subdivisions; and

(k) Assist forest landowners in accessing market capital and financing for the ecosystem services provided to the public as a result of the protection of public resources.

(3) The legislature further finds and declares that it is also in the public interest of the state to encourage forest landowners to undertake corrective and remedial action to reduce the impact of mass earth movements and fluvial processes.

(4) The legislature further finds and declares that it is in the public interest that the applicants for state forest practices permits should assist in paying for the cost of review and permitting necessary for the environmental protection of these resources.

Sec. 4. RCW 76.09.040 and 2009 c 246 s 1 are each amended to read as follows:

(1)(a) Where necessary to accomplish the purposes and policies stated in RCW 76.09.010, and to implement the provisions of this chapter, the board shall adopt forest practices rules pursuant to chapter 34.05 RCW and in accordance with the procedures enumerated in this section that:

~~((a))~~ (i) Establish minimum standards for forest practices;

~~((b))~~ (ii) Provide procedures for the voluntary development of resource management plans which may be adopted as an alternative to the minimum standards in (a)(i) of this subsection if the plan is consistent with the purposes and policies stated in RCW 76.09.010 and the plan meets or exceeds the objectives of the minimum standards;

~~((c))~~ (iii) Set forth necessary administrative provisions;

~~((d))~~ (iv) Establish procedures for the collection and administration of forest practice fees as set forth by this chapter; and

~~((e))~~ (v) Allow for the development of watershed analyses.

(b) Forest practices rules pertaining to water quality protection shall be adopted by the board after reaching agreement with the director of the department of ecology or the director's designee on the board with respect thereto. All other forest practices rules shall be adopted by the board.

(c) Forest practices rules shall be administered and enforced by either the department or the local governmental entity as provided in this chapter. Such rules shall be adopted and administered so as to give consideration to all purposes and policies set forth in RCW 76.09.010.

(2)(a) The board shall prepare proposed forest practices rules consistent with this section and chapter 34.05 RCW. In addition to any forest practices rules relating to water quality protection proposed by the board, the department of ecology may submit to the board proposed forest practices rules relating to water quality protection.

(b)(i) Prior to initiating the rule-making process, the proposed rules shall be submitted for review and comments to the department of fish and wildlife and to the counties of the state. After receipt of the proposed forest practices rules, the department of fish and wildlife and the counties of the state shall have thirty days in which to review and submit comments to the board, and to the department of ecology with respect to its proposed rules relating to water quality protection.

(ii) After the expiration of ~~((such))~~ the thirty day period, the board and the department of ecology shall jointly hold one or more hearings on the proposed rules pursuant to chapter 34.05 RCW. ~~((At such hearing(s)))~~

Any county representative may propose specific forest practices rules relating to problems existing within ~~((such))~~ the county at the hearings.

(iii) The board may adopt and the department of ecology may approve such proposals if they find the proposals are consistent with the purposes and policies of this chapter.

(3)(a) The board shall establish by rule a program for the acquisition of riparian open space and critical habitat for threatened or endangered species as designated by the board. Acquisition must be a conservation easement. Lands eligible for acquisition are forest lands within unconfined channel migration zones or forest lands containing critical habitat for threatened or endangered species as designated by the board. Once acquired, these lands may be held and managed by

the department, transferred to another state agency, transferred to an appropriate local government agency, or transferred to a private nonprofit nature conservancy corporation, as defined in RCW 64.04.130, in fee or transfer of management obligation. The board shall adopt rules governing the acquisition by the state or donation to the state of such interest in lands including the right of refusal if the lands are subject to unacceptable liabilities. The rules shall include definitions of qualifying lands, priorities for acquisition, and provide for the opportunity to transfer such lands with limited warranties and with a description of boundaries that does not require full surveys where the cost of securing the surveys would be unreasonable in relation to the value of the lands conveyed. The rules shall provide for the management of the lands for ecological protection or fisheries enhancement. For the purposes of conservation easements entered into under this section, the following apply:

~~((a))~~ (i) For conveyances of a conservation easement in which the landowner conveys an interest in the trees only, the compensation must include the timber value component, as determined by the cruised volume of any timber located within the channel migration zone or critical habitat for threatened or endangered species as designated by the board, multiplied by the appropriate quality code stumpage value for timber of the same species shown on the appropriate table used for timber harvest excise tax purposes under RCW 84.33.091;

~~((b))~~ (ii) For conveyances of a conservation easement in which the landowner conveys interests in both land and trees, the compensation must include the timber value component in (a)(i) of this subsection plus such portion of the land value component as determined just and equitable by the department. The land value component must be the acreage of qualifying channel migration zone or critical habitat for threatened or endangered species as determined by the board, to be conveyed, multiplied by the average per acre value of all commercial forest land in western Washington or the average for eastern Washington, whichever average is applicable to the qualifying lands. The department must determine the western and eastern Washington averages based on the land value tables established by RCW 84.33.140 and revised annually by the department of revenue.

~~((4))~~ (b) Subject to appropriations sufficient to cover the cost of such an acquisition program and the related costs of administering the program, the department must establish a conservation easement in land that an owner tenders for purchase; provided that such lands have been taxed as forest lands and are located within an unconfined channel migration zone or contain critical habitat for threatened or endangered species as designated by the board. Lands acquired under this section shall become riparian or habitat open space. These acquisitions shall not be deemed to trigger the compensating tax of chapters 84.33 and 84.34 RCW.

~~((5))~~ (c) Instead of offering to sell interests in qualifying lands, owners may elect to donate the interests to the state.

~~((6))~~ (d) Any acquired interest in qualifying lands by the state under this section shall be managed as riparian open space or critical habitat.

NEW SECTION. Sec. 5. (1) The department of natural resources shall, to the degree that resources are available, develop, consistent with this section, proposals for the development of appropriate landowner conservation incentives that support forest landowners maintaining their land in forestry. These incentives may include, but are not limited to, incentives that are related to ecosystem service markets, tax incentives, easements, technical assistance, and recognition or certification.

(2) The department of natural resources shall consult with the forest practices board, representatives of federal, state, and local government, Indian tribes, small forest landowners, conservation groups, industrial foresters, and other individuals deemed beneficial by the department in implementing this section.

(3) By December 31, 2011, the department of natural resources must present their research and any proposed incentives to the governor, the appropriate committees of the legislature, the commissioner of public lands, and the forest practices board. The department of natural resources shall also offer to present their findings and recommendations to the Washington congressional delegation, local governments, and any state or federal agency that has as a portion of their mission the support of Washington's working land base and the jobs, products, and ecological values that working lands provide.

(4) Neither the activities nor outcome of the department of natural resources' actions or decisions under this section shall cause, promote, or delay rule making by the forest practices board in the execution of its applicable duties.

(5) The department of natural resources is authorized to seek federal and private funds, and in-kind contributions to complete the work in this act. At the discretion of the department of natural resources, the department must comply with this act only to the degree that existing or acquired nonstate resources permit.

(6) This section expires July 1, 2012.

Sec. 6. RCW 76.09.020 and 2009 c 354 s 5 and 2009 c 246 s 4 are each reenacted and amended to read as follows:

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

(1) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Appeals board" means the forest practices appeals board created by RCW 76.09.210.

(3) "Application" means the application required pursuant to RCW 76.09.050.

(4) "Aquatic resources" includes water quality, salmon, other species of the vertebrate classes Cephalaspidomorphi and Osteichthyes identified in the forests and fish report, the Columbia torrent salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton olympian*), the Dunn's salamander (*Plethodon dunni*), the Van Dyke's salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and their respective habitats.

(5) "Board" means the forest practices board created in RCW 76.09.030.

(6) "Commissioner" means the commissioner of public lands.

(7) "Contiguous" means land adjoining or touching by common corner or otherwise. Land having common ownership divided by a road or other right-of-way shall be considered contiguous.

(8) "Conversion to a use other than commercial timber operation" means a bona fide conversion to an active use which is incompatible with timber growing and as may be defined by forest practices rules.

(9) "Department" means the department of natural resources.

(10) "Fish passage barrier" means any artificial instream structure that impedes the free passage of fish.

(11) "Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. Forest land does not include agricultural land that is or was enrolled in the conservation reserve enhancement program by contract if such agricultural land was historically used for agricultural purposes and the landowner intends to continue to use the land for agricultural purposes in the future. As it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, the term "forest land" excludes:

(a) Residential home sites, which may include up to five acres; and

(b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens, and the land on which appurtenances necessary to the production,

preparation, or sale of crops, fruit, dairy products, fish, and livestock exist.

(12) "Forest landowner" means any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner. However, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest landowner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

(13) "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

(a) Road and trail construction;

(b) Harvesting, final and intermediate;

(c) Precommercial thinning;

(d) Reforestation;

(e) Fertilization;

(f) Prevention and suppression of diseases and insects;

(g) Salvage of trees; and

(h) Brush control.

"Forest practice" shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

(14) "Forest practices rules" means any rules adopted pursuant to RCW 76.09.040.

(15) "Forest road," as it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, means a road or road segment that crosses land that meets the definition of forest land, but excludes residential access roads.

(16) "Forest trees" does not include hardwood trees cultivated by agricultural methods in growing cycles shorter than fifteen years if the trees were planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees. "Forest trees" includes Christmas trees, but does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(17) "Forests and fish report" means the forests and fish report to the board dated April 29, 1999.

(18) "Operator" means any person engaging in forest practices except an employee with wages as his or her sole compensation.

(19) "Person" means any individual, partnership, private, public, or municipal corporation, county, the department or other state or local governmental entity, or association of individuals of whatever nature.

(20) "Public resources" means water, fish and wildlife, and in addition shall mean capital improvements of the state or its political subdivisions.

(21) "Small forest landowner" has the same meaning as defined in RCW 76.09.450.

(22) "Timber" means forest trees, standing or down, of a commercial species, including Christmas trees. However, "timber" does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(23) "Timber owner" means any person having all or any part of the legal interest in timber. Where such timber is subject to a contract of sale, "timber owner" shall mean the contract purchaser.

(24) "Unconfined channel migration zone" means the area within which the active channel of an unconfined stream is prone to move and where the movement would result in a potential near-term loss of

riparian forest adjacent to the stream. Sizeable islands with productive timber may exist within the zone.

(25) "Unconfined stream" means generally fifth order or larger waters that experience abrupt shifts in channel location, creating a complex floodplain characterized by extensive gravel bars, disturbance species of vegetation of variable age, numerous side channels, wall-based channels, oxbow lakes, and wetland complexes. Many of these streams have dikes and levees that may temporarily or permanently restrict channel movement.

(26) "Ecosystem services" means the benefits that the public enjoys as a result of natural processes and biological diversity.

(27) "Ecosystem services market" means a system in which providers of ecosystem services can access financing or market capital to protect, restore, and maintain ecological values, including the full spectrum of regulatory, quasiregulatory, and voluntary markets."

On page 1, line 3 of the title, after "industry;" strike the remainder of the title and insert "amending RCW 76.09.010 and 76.09.040; reenacting and amending RCW 76.09.020; adding a new section to chapter 76.44 RCW; creating new sections; and providing an expiration date."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2541 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Takko and 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 Engrossed Substitute House Bill No. 2541, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2541, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Representatives Dickerson, Hope and Hurst.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2541, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2551 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Association" means the Washington vaccine association.

(2) "Covered lives" means all persons under the age of nineteen in Washington state who are:

(a) Covered under an individual or group health benefit plan issued or delivered in Washington state or an individual or group health benefit plan that otherwise provides benefits to Washington residents; or

(b) Enrolled in a group health benefit plan administered by a third-party administrator. Persons under the age of nineteen for whom federal funding is used to purchase vaccines or who are enrolled in state purchased health care programs covering low-income children including, but not limited to, apple health for kids under RCW 74.09.470 and the basic health plan under chapter 70.47 RCW are not considered "covered lives" under this chapter.

(3) "Estimated vaccine cost" means the estimated cost to the state over the course of a state fiscal year for the purchase and distribution of vaccines purchased at the federal discount rate by the department of health.

(4) "Health benefit plan" has the same meaning as defined in RCW 48.43.005 and also includes health benefit plans administered by a third-party administrator.

(5) "Health carrier" has the same meaning as defined in RCW 48.43.005.

(6) "Secretary" means the secretary of the department of health.

(7) "State supplied vaccine" means vaccine purchased by the state department of health for covered lives for whom the state is purchasing vaccine using state funds raised via assessments on health carriers and third-party administrators as provided in this chapter.

(8) "Third-party administrator" means any person or entity who, on behalf of a health insurer or health care purchaser, receives or collects charges, contributions, or premiums for, or adjusts or settles claims on or for, residents of Washington state or Washington health care providers and facilities.

(9) "Total nonfederal program cost" means the estimated vaccine cost less the amount of federal revenue available to the state for the purchase and distribution of vaccines.

(10) "Vaccine" means a preparation of killed or attenuated living microorganisms, or fraction thereof, that upon administration stimulates immunity that protects against disease and is approved by the federal food and drug administration as safe and effective and recommended by the advisory committee on immunization practices of the centers for disease control and prevention for administration to children under the age of nineteen years.

NEW SECTION. Sec. 2. There is created a nonprofit corporation to be known as the Washington vaccine association. The association is formed for the purpose of collecting and remitting adequate funds from health carriers and third-party administrators for the cost of vaccines provided to certain children in Washington state.

NEW SECTION. Sec. 3. (1) The association is comprised of all health carriers issuing or renewing health benefit plans in Washington state and all third-party administrators conducting business on behalf of residents of Washington state or Washington health care providers and facilities. Third-party administrators are subject to registration under section 9 of this act.

(2) The association is a nonprofit corporation under chapter 24.03 RCW and has the powers granted under that chapter.

(3) The board of directors includes the following voting members:

(a) Four members, selected from health carriers or third-party administrators, excluding health maintenance organizations, that have the most fully insured and self-funded covered lives in Washington state. The count of total covered lives includes enrollment in all companies included in their holding company system. Each health carrier or third-party administrator is entitled to no more than a single position on the board to represent all entities under common ownership or control.

(b) One member selected from the health maintenance organization having the most fully insured and self-insured covered lives in Washington state. The count of total lives includes enrollment in all companies included in its holding company system. Each health maintenance organization is entitled to no more than a single position on the board to represent all entities under common ownership or control.

(c) One member, representing health carriers not otherwise represented on the board under (a) or (b) of this subsection, who is elected from among the health carrier members not designated under (a) or (b) of this subsection.

(d) One member, representing Taft Hartley plans, appointed by the secretary from a list of nominees submitted by the Northwest administrators association.

(e) One member representing Washington state employers offering self-funded health coverage, appointed by the secretary from a list of nominees submitted by the Puget Sound health alliance.

(f) Two physician members appointed by the secretary, including at least one board certified pediatrician.

(g) The secretary, or a designee of the secretary with expertise in childhood immunization purchasing and distribution.

(4) The directors' terms and appointments must be specified in the plan of operation adopted by the association.

(5) The board of directors of the association shall:

(a) Prepare and adopt articles of association and bylaws;

(b) Prepare and adopt a plan of operation;

(c) Submit the plan of operation to the secretary for approval;

(d) Conduct all activities in accordance with the approved plan of operation;

(e) Enter into contracts as necessary or proper to collect and disburse the assessment;

(f) Enter into contracts as necessary or proper to administer the plan of operation;

(g) Sue or be sued, including taking any legal action necessary or proper for the recovery of any assessment for, on behalf of, or against members of the association or other participating person;

(h) Appoint, from among its directors, committees as necessary to provide technical assistance in the operation of the association, including the hiring of independent consultants as necessary;

(i) Obtain such liability and other insurance coverage for the benefit of the association, its directors, officers, employees, and agents as may in the judgment of the board of directors be helpful or necessary for the operation of the association;

(j) By May 1, 2010, establish the estimated amount of the assessment needed for the period of May 1, 2010, through December 31, 2010, based upon the estimate provided to the association under section 4(1) of this act; and notify, in writing, each health carrier and third-party administrator of the health carrier's or third-party administrator's total assessment for this period by May 15, 2010;

(k) On an annual basis, beginning no later than November 1, 2010, and by November 1st of each year thereafter, establish the estimated amount of the assessment;

(l) Notify, in writing, each health carrier and third-party administrator of the health carrier's or third-party administrator's estimated total assessment by November 15th of each year;

(m) Submit a periodic report to the secretary listing those health carriers or third-party administrators that failed to remit their assessments and audit health carrier and third-party administrator books and records for accuracy of assessment payment submission;

(n) Allow each health carrier or third-party administrator no more than ninety days after the notification required by (l) of this subsection to remit any amounts in arrears or submit a payment plan, subject to approval by the association and initial payment under an approved payment plan;

(o) Deposit annual assessments collected by the association, less the association's administrative costs, with the state treasurer to the credit of the universal vaccine purchase account established in RCW 43.70.720;

(p) Borrow and repay such working capital, reserve, or other funds as, in the judgment of the board of directors, may be helpful or necessary for the operation of the association; and

(q) Perform any other functions as may be necessary or proper to carry out the plan of operation and to affect any or all of the purposes for which the association is organized.

(6) The secretary shall convene the initial meeting of the association board of directors.

NEW SECTION. Sec. 4. (1) The secretary shall estimate the total nonfederal program cost for the upcoming calendar year by October 1, 2010, and October 1st of each year thereafter. Additionally, the secretary shall subtract any amounts needed to serve children enrolled in state purchased health care programs covering low-income children for whom federal vaccine funding is not available, and report the final amount to the association. In addition, the secretary shall perform such calculation for the period of May 1st through December 31st, 2010, as soon as feasible but in no event later than April 1, 2010. The estimates shall be timely communicated to the association.

(2) The board of directors of the association shall determine the method and timing of assessment collection in consultation with the department of health. The board shall use a formula designed by the board to ensure the total anticipated nonfederal program cost, minus costs for other children served through state-purchased health care programs covering low-income children, calculated under subsection (1) of this section, is collected and transmitted to the universal vaccine purchase account created in RCW 43.70.720 in order to ensure adequacy of state funds to order state-supplied vaccine from federal centers for disease control and prevention.

(3) Each licensed health carrier and each third-party administrator on behalf of its clients' health benefit plans must be assessed and is required to timely remit payment for its share of the total amount needed to fund nonfederal program costs calculated by the department of health. Such an assessment includes additional funds as determined necessary by the board to cover the reasonable costs for the association's administration. The board shall determine the assessment methodology, with the intent of ensuring that the nonfederal costs are based on actual usage of vaccine for a health carrier or third-party administrator's covered lives. State and local governments and school districts must pay their portion of vaccine expense for covered lives under this chapter.

(4) The board of the association shall develop a mechanism through which the number and cost of doses of vaccine purchased under this chapter that have been administered to children covered by each health carrier, and each third-party administrator's clients health benefit plans, are attributed to each such health carrier and third-party administrator. Except as otherwise permitted by the board, this mechanism must include at least the following: Date of service; patient name; vaccine received; and health benefit plan eligibility. The data must be collected and maintained in a manner consistent

with applicable state and federal health information privacy laws. Beginning November 1, 2011, and each November 1st thereafter, the board shall factor the results of this mechanism for the previous year into the determination of the appropriate assessment amount for each health carrier and third-party administrator for the upcoming year.

(5) For any year in which the total calculated cost to be received from association members through assessments is less than the total nonfederal program cost, the association must pay the difference to the state for deposit into the universal vaccine purchase account established in RCW 43.70.720. The board may assess, and the health carrier and third-party administrators are obligated to pay, their proportionate share of such costs and appropriate reserves as determined by the board.

(6) The aggregate amount to be raised by the association in any year may be reduced by any surpluses remaining from prior years.

(7) In order to generate sufficient start-up funding, the association may accept prepayment from member health carriers and third-party administrators, subject to offset of future amounts otherwise owing or other repayment method as determined by the board. The initial deposit of start-up funding must be deposited into the universal vaccine purchase account on or before April 30, 2010.

NEW SECTION. Sec. 5. (1) The board of the association shall establish a committee for the purposes of developing recommendations to the board regarding selection of vaccines to be purchased in each upcoming year by the department. The committee must be composed of at least five voting board members, including at least three health carrier or third-party administrator members, one physician, and the secretary or the secretary's designee. The committee must also include a representative of vaccine manufacturers, who is a nonvoting member of the committee. The representative of vaccine manufacturers must be chosen by the secretary from a list of three nominees submitted collectively by vaccine manufacturers on an annual basis.

(2) In selecting vaccines to purchase, the following factors should be strongly considered by the committee: Patient safety and clinical efficacy, public health and purchaser value, compliance with RCW 70.95M.115, patient and provider choice, and stability of vaccine supply.

NEW SECTION. Sec. 6. In addition to the duties and powers enumerated elsewhere in this chapter:

(1) The association may, pursuant to either vote of its board of directors or request of the secretary, audit compliance with reporting obligations established under the association's plan of operation. Upon failure of any entity that has been audited to reimburse the costs of such audit as certified by vote of the association's board of directors within forty-five days of notice of such vote, the secretary shall assess a civil penalty of one hundred fifty percent of the amount of such costs.

(2) The association may establish an interest charge for late payment of any assessment under this chapter. The secretary shall assess a civil penalty against any health carrier or third-party administrator that fails to pay an assessment within three months of notification under section 3 of this act. The civil penalty under this subsection is one hundred fifty percent of such assessment.

(3) The secretary and the association are authorized to file liens and seek judgment to recover amounts in arrears and civil penalties, and recover reasonable collection costs, including reasonable attorneys' fees and costs. Civil penalties so levied must be deposited in the universal vaccine purchase account created in RCW 43.70.720.

(4) The secretary may adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this section.

NEW SECTION. Sec. 7. The board of directors of the association shall submit to the secretary, no later than one hundred twenty days after the close of the association's fiscal year, a financial report in a form approved by the secretary.

NEW SECTION. Sec. 8. No liability on the part of, and no cause of action of any nature, shall arise against any member of the board of the association, against an employee or agent of the association, or against any health care provider for any lawful action taken by them in the performance of their duties or required activities under this chapter.

NEW SECTION. Sec. 9. A new section is added to chapter 43.24 RCW to read as follows:

(1)(a) Beginning September 1, 2010, a third-party administrator must register with the department of licensing and renew its registration on an annual basis thereafter prior to December 31st of each year, or within ten days after the registrant changes its name, business name, business address, or business telephone number, whichever occurs sooner.

(b) The registrant shall pay the registration or renewal fee established by the department of licensing as provided in RCW 43.24.086.

(c) Any person or entity that is acting as or holding itself out to be a third-party administrator while failing to have registered under this section is subject to a civil penalty of not less than one thousand dollars nor more than ten thousand dollars for each violation. The civil penalty is in addition to any other penalties that may be imposed for violations of other laws of this state.

(2) For the purposes of this section, "third-party administrator" has the same meaning as defined in section 1 of this act.

(3) The department of licensing may adopt rules under chapter 34.05 RCW as necessary to implement this section.

Sec. 10. RCW 43.70.720 and 2009 c 564 s 934 are each amended to read as follows:

The universal vaccine purchase account is created in the custody of the state treasurer. Receipts from public and private sources for the purpose of increasing access to vaccines for children may be deposited into the account. Expenditures from the account must be used exclusively for the purchase of vaccines, at no cost to health care providers in Washington, to administer to children under nineteen years old who are not eligible to receive vaccines at no cost through federal programs. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 11. Sections 1 through 8 and 12 through 14 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 12. (1) The association board may, on or after June 30, 2015, vote to recommend termination of the association if it finds that the original intent of its formation and operation, which is to ensure more cost-effective purchase and distribution of vaccine than if provided through uncoordinated purchase by health care providers, has not been achieved. The association board shall provide notice of the recommendation to the relevant policy and fiscal committees of the legislature within thirty days of the vote being taken by the association board. If the legislature has not acted by the last day of the next regular legislative session to reject the board's recommendation, the board may vote to permanently dissolve the association.

(2) In the event of a voluntary or involuntary dissolution of the association, funds remaining in the universal purchase vaccine account created in RCW 43.70.720 that were collected under this chapter must be returned to the member health carrier and third-party administrators in proportion to their previous year's contribution, from any balance remaining following the repayment of any prepayments for start-up funding not previously recouped by such member.

NEW SECTION. Sec. 13. Physicians and clinics ordering state supplied vaccine must ensure they have billing mechanisms and practices in place that enable the association to accurately track vaccine delivered to association members' covered lives and must submit documentation in such a form as may be prescribed by the

board in consultation with state physician organizations. Physicians and other persons providing childhood immunization are strongly encouraged to use state supplied vaccine whenever possible. Nothing in this chapter prohibits health carriers and third-party administrators from denying claims for vaccine serum costs when the serum or serums providing similar protection are provided or available via state supplied vaccine.

NEW SECTION. Sec. 14. If the requirement that any segment of health carriers, third-party administrators, or state or local governmental entities provide funding for the program established in this chapter is invalidated by a court of competent jurisdiction, the board of the association may terminate the program one hundred twenty days following a final judicial determination on the matter.

NEW SECTION. Sec. 15. A new section is added to chapter 48.43 RCW to read as follows:

Assessments paid by carriers under section 4 of this act may be considered medical expenses for purposes of rate setting and regulatory filings.

NEW SECTION. Sec. 16. A new section is added to chapter 82.04 RCW to read as follows:

This chapter does not apply to assessments described in sections 3 and 4 of this act received by a nonprofit corporation established under section 2 of this act.

NEW SECTION. Sec. 17. 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."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2551 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Cody and Ericksen 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. 2551, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2551, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

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

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

Excused: Representatives Dickerson, Hope and Hurst.

SECOND SUBSTITUTE HOUSE BILL NO. 2551, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2593 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of the unlawful use of shellfish gear for commercial purposes if the person:

(a) Takes, fishes for, or possesses crab, shrimp, or crawfish for commercial purposes with shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications; or

(b) Is found in possession of, upon any vessel located on the waters of the state, shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications, unless a person holds a valid crab pot removal permit under RCW 77.70.500 and is in the process of transporting removed crab pots as part of the Dungeness crab pot removal program.

(2) The unlawful use of shellfish gear for commercial purposes is a gross misdemeanor.

NEW SECTION. Sec. 2. A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of the unlawful use of shellfish gear for personal use purposes if the person:

(a) Takes, fishes for, or possesses crab, shrimp, or crawfish for personal use purposes with shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications; or

(b) Is found in possession of, upon any vessel located on the waters of the state, shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications, unless a person holds a valid crab pot removal permit under RCW 77.70.500 and is in the process of transporting removed crab pots as part of the Dungeness crab pot removal program.

(2) The unlawful use of shellfish gear for personal use purposes is a misdemeanor.

Sec. 3. RCW 77.70.500 and 2009 c 355 s 1 are each amended to read as follows:

(1)(a) As part of a coastal commercial Dungeness crab pot removal program, the department shall issue a crab pot removal permit that allows the participants in the Dungeness crab-coastal fishery created in RCW 77.70.280 to remove crab pots belonging to state commercial licensed crab fisheries from coastal marine waters after the close of the primary commercial Dungeness crab-coastal harvest season, regardless of whether the crab pot was originally set by the participant or not.

(b) Beginning fifteen days after the close of the primary commercial Dungeness crab-coastal harvest season, any individual with a current commercial Dungeness crab-coastal license and a valid crab pot removal permit issued by the department may remove a crab pot or crab pots used to harvest Dungeness crabs remaining in coastal

marine waters after the close of the primary commercial Dungeness crab-coastal harvest season.

(c) In cooperation with individuals with a current commercial Dungeness crab-coastal license, the department may expand the coastal commercial Dungeness crab pot removal program to those areas closed to commercial Dungeness crab harvest prior to the end of the primary season.

(d) Nothing in this section prohibits the department from exempting certain crab pots from the coastal commercial Dungeness crab pot removal program or from restricting crab pot removal activities to specific geographic areas.

~~((e) The department may adopt rules to implement this subsection (1).)~~

(2)(a) The department may expand the crab pot removal program to allow for the removal of shellfish pots belonging to state commercial or recreational licensed shellfish fisheries from Puget Sound waters during shellfish harvest closures, regardless of whether the shellfish pot was originally set by the permittee or not.

(b) If the department expands the program to Puget Sound waters, the department shall limit the program as necessary to streamline implementation, minimize the oversight burden on fish and wildlife enforcement officers, minimize interference with lawful fisheries and other user groups, minimize administrative overhead cost, and avoid the collection of shellfish pots that are not abandoned. The program may be limited as deemed appropriate by the department, including limitations on:

(i) The number of participants;

(ii) The eligible geographic areas in Puget Sound where shellfish pots may be recovered;

(iii) The types of shellfish pots that may be recovered;

(iv) The maximum or minimum depth where a shellfish pot must be located to be eligible for recovery; and

(v) The ports through which the vessels collecting the abandoned shellfish pots may operate.

(3) The department may adopt rules to implement subsections (1) and (2) of this section.

(4)(a) The following are exempt from complying with the lost and found property provisions in chapter 63.21 RCW:

(i) An individual participating in permitted crab pot removal activities in coastal marine waters who has a valid crab pot removal permit, and who adheres to the provisions of the permit as they relate to crab pot removal (~~is exempt from complying with the lost and found property provisions in chapter 63.21 RCW~~); and

(ii) An individual participating in permitted shellfish pot removal activities in Puget Sound waters who has a valid shellfish pot removal permit and who adheres to the provisions of the permit as they relate to shellfish pot removal.

(b) The individual who removes ~~(the crab)~~ a shellfish pot under a valid crab pot removal permit or a valid shellfish pot removal permit takes the property free and clear of all claims of the owner or previous holder and free and clear of all individuals claiming ownership under the previous owner.

~~((3)(a) A person is guilty of unlawful use of a crab pot removal permit if the person:~~

~~(i) Violates any terms or conditions of the permit issued under this section; or~~

~~(ii) Violates any rule of the department applicable to the requirement for, issuance of, or use of the permit.~~

~~(b) Unlawful use of a crab pot removal permit is a misdemeanor.)~~

(5) A violation of this section, or any rules or permit conditions provided under this section, is punishable as provided in RCW 77.15.750.

(6) Individuals who remove shellfish pots under a valid crab pot removal permit or a valid shellfish pot removal permit in accordance with this section are not subject to permitting under RCW 77.55.021.

Sec. 4. RCW 77.15.520 and 1998 c 190 s 37 are each amended to read as follows:

(1) Except for actions involving shellfish gear punishable under section 1 of this act, a person is guilty of commercial fishing using unlawful gear or methods if the person acts for commercial purposes and takes or fishes for any fish or shellfish using any gear or method in violation of a rule of the ~~(department)~~ commission specifying, regulating, or limiting the gear or method for taking, fishing, or harvesting of such fish or shellfish.

(2) Commercial fishing using unlawful gear or methods is a gross misdemeanor.

Sec. 5. RCW 77.15.380 and 2001 c 253 s 39 are each amended to read as follows:

(1) A person is guilty of unlawful recreational fishing in the second degree if the person fishes for, takes, possesses, or harvests fish or shellfish and:

(a) The person does not have and possess the license or the catch record card required by chapter 77.32 RCW for such activity; or

(b) The action violates any rule of the commission or the director regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas, closed times, or any other rule addressing the manner or method of fishing or possession of fish, except for use of a net to take fish as provided for in RCW 77.15.580 and the unlawful use of shellfish gear for personal use as provided in section 2 of this act.

(2) Unlawful recreational fishing in the second degree is a misdemeanor.

Sec. 6. RCW 63.21.080 and 2009 c 355 s 2 are each amended to read as follows:

This chapter shall not apply to:

(1) Motor vehicles under chapter 46.52 RCW;

(2) Unclaimed property in the hands of a bailee under chapter 63.24 RCW;

(3) Uniform disposition of unclaimed property under chapter 63.29 RCW;

(4) Secured vessels under chapter 79A.65 RCW; and

(5) Crab or other shellfish pots in coastal marine or Puget Sound waters under RCW 77.70.500.

Sec. 7. RCW 77.12.865 and 2005 c 146 s 1004 are each amended to read as follows:

(1) As used in this section and RCW 77.12.870, "derelict fishing gear" includes lost or abandoned fishing nets, fishing lines, ~~(crab pots, shrimp pots,)~~ and other commercial and recreational fishing equipment. The term does not include lost or abandoned vessels or shellfish pots.

(2) The department, in partnership with the Northwest straits commission, the department of natural resources, and other interested parties, must publish guidelines for the safe removal and disposal of derelict fishing gear. The guidelines ~~(must be completed by August 31, 2002, and)~~ may be updated as deemed necessary by the department. The guidelines must be made available to any person interested in derelict fishing gear removal.

(3) Derelict fishing gear removal conducted in accordance with the guidelines prepared in subsection (2) of this section is not subject to permitting under RCW 77.55.021.

Sec. 8. RCW 77.12.870 and 2009 c 333 s 21 are each amended to read as follows:

(1) The department, in ~~(consultation with the Northwest straits commission, the department of natural resources, and other interested parties, must create and maintain a database of known derelict fishing gear)~~ partnership with the Northwest straits commission, the department of natural resources, and other interested parties, must create and ensure the maintenance of a database of known derelict fishing gear and shellfish pots, including the type of gear and its location.

(2) A person who loses or abandons commercial fishing gear or shellfish pots within the waters of the state is encouraged to report the location of the loss and the type of gear lost to the department within forty-eight hours of the loss.

Sec. 9. RCW 77.15.750 and 2009 c 333 s 14 are each amended to read as follows:

(1) A person is guilty of unlawful use of a department permit if the person:

(a) Violates any terms or conditions of the permit issued by the department or the director; or

(b) Violates any rule of the commission or the director applicable to the requirement for, issuance of, or use of the permit.

(2)(a) Permits covered under subsection (1) of this section include, but are not limited to, master hunter permits, crab pot removal permits and shellfish pot removal permits under RCW 77.70.500, depredation permits, landowner hunting permits, commercial carp license permits, permits to possess or dispense beer or malt liquor pursuant to RCW 66.28.210, and permits to hold, sponsor, or attend an event requiring a banquet permit from the liquor control board.

(b) Permits excluded from subsection (1) of this section include fish and wildlife lands vehicle use permits, commercial use or activity permits, noncommercial use or activity permits, parking permits, experimental fishery permits, trial commercial fishery permits, and scientific collection permits.

(3) Unlawful use of a department permit is a misdemeanor.

(4) A person is guilty of unlawful use of an experimental fishery permit or a trial commercial fishery permit if the person:

(a) Violates any terms or conditions of the permit issued by the department or the director; or

(b) Violates any rule of the commission or the director applicable to the issuance or use of the permit.

(5) Unlawful use of an experimental fishery permit or a trial commercial fishery permit is a gross misdemeanor.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Experimental fishery permit" means a permit issued by the director for either:

(i) An "emerging commercial fishery," defined as a fishery for a newly classified species for which the department has determined that there is a need to limit participation; or

(ii) An "expanding commercial fishery," defined as a fishery for a previously classified species in a new area, by a new method, or at a new effort level, for which the department has determined that there is a need to limit participation.

(b) "Trial commercial fishery permit" means a permit issued by the department for trial harvest of a newly classified species or harvest of a previously classified species in a new area or by a new means.

Sec. 10. RCW 77.55.041 and 2005 c 146 s 302 are each amended to read as follows:

(1) The removal of derelict fishing gear does not require a permit under this chapter if the gear is removed according to the guidelines described in RCW 77.12.865.

(2) The removal of crab and other shellfish gear does not require a permit under this chapter if the gear is removed under a permit issued pursuant to RCW 77.70.500.

Sec. 11. RCW 77.32.430 and 2009 c 333 s 40 are each amended to read as follows:

(1) Catch record card information is necessary for proper management of the state's food fish and game fish species and shellfish resources. Catch record card administration shall be under rules adopted by the commission. There is no charge for an initial catch record card. Each subsequent or duplicate catch record card costs ten dollars.

(2) A license to take and possess Dungeness crab is only valid in Puget Sound waters east of the Bonilla-Tatoosh line if the fisher has in possession a valid catch record card officially endorsed for Dungeness crab. The endorsement shall cost no more than three dollars, including any or all fees authorized under RCW 77.32.050, when purchased for a personal use saltwater, combination, or shellfish and seaweed license. The endorsement shall cost no more than one dollar, including any or all fees authorized under RCW 77.32.050, when purchased for a temporary combination fishing license authorized under RCW 77.32.470(3)(a).

(3) Catch record cards issued with affixed temporary short-term charter stamp licenses are not subject to the ten-dollar charge nor to the Dungeness crab endorsement fee provided for in this section. Charter boat or guide operators issuing temporary short-term charter stamp licenses shall affix the stamp to each catch record card issued before fishing commences. Catch record cards issued with a temporary short-term charter stamp are valid for one day.

(4) The department shall include provisions for recording marked and unmarked salmon in catch record cards issued after March 31, 2004.

(5)(a) The funds received from the sale of catch record cards and the Dungeness crab endorsement must be deposited into the state wildlife account created in RCW 77.12.170. The funds received from the Dungeness crab endorsement may be used only for the sampling, monitoring, and management of catch associated with the Dungeness crab recreational fisheries. Until June 30, 2011, funds received from the Dungeness crab endorsement may be used for the removal and disposal of derelict shellfish gear either directly by the department or under contract with a third party.

(b) Moneys allocated under this section shall supplement and not supplant other federal, state, and local funds used for Dungeness crab recreational fisheries management.

NEW SECTION. Sec. 12. (1) The department of fish and wildlife shall, in cooperation with stakeholders in the recreational and commercial crab fisheries and other knowledgeable individuals, as deemed appropriate by the director of the department, deliver to the appropriate committees of the legislature findings and recommendations relating to the following topics:

(a) The scope of the derelict shellfish gear problem in Washington waters, including estimates of the existing quantity of derelict gear and estimates of annual shellfish gear loss;

(b) The cost of recovering and disposing of derelict shellfish gear;

(c) Technical and legal barriers to recovering and disposing of derelict shellfish gear;

(d) Possible public education efforts to prevent future shellfish gear loss and to promote compliance with required gear specifications;

(e) Possible changes to the current funding structure for derelict shellfish gear removal and Dungeness crab sampling, monitoring, and management, which may include the termination or alteration of the existing Dungeness crab endorsement required under RCW 77.32.430 and the identification of possible new funding sources.

(2) If deemed practicable by the director of the department of fish and wildlife, the findings and recommendations included in the report required in this section should be informed by the actual collection of derelict shellfish pots.

(3) Findings and recommendations required under this section must be submitted consistent with RCW 43.01.036 by December 31, 2010.

(4) This section expires July 31, 2011.

Sec. 13. RCW 77.70.350 and 2006 c 159 s 1 are each amended to read as follows:

(1) The following restrictions apply to vessel designations and substitutions on Dungeness crab-coastal fishery licenses:

(a) The holder of the license may not:

(i) Designate on the license a vessel the hull length of which exceeds ninety-nine feet; or

(ii) Change vessel designation if the hull length of the vessel proposed to be designated exceeds the hull length designated on the license on June 7, 2006, by more than ten feet. However, if such vessel designation is the result of an emergency transfer, the applicable vessel length would be the most recent permanent vessel designation on the license prior to June 7, 2006;

(b) If the hull length of the vessel proposed to be designated is comparable to or exceeds by up to one foot the hull length of the currently designated vessel, the department may change the vessel designation no more than once in any ~~((two consecutive Washington state coastal crab seasons))~~ one-year period, measured from September 15th to September 15th of the following year, unless the currently designated vessel is lost or in disrepair such that it does not safely operate, in which case the department may allow a change in vessel designation;

(c) If the hull length of the vessel proposed to be designated exceeds by between one and ten feet the hull length of the designated vessel on June 7, 2006, the department may change the vessel designation no more than once on or after June 7, 2006, unless a request is made by the license holder during a Washington state coastal crab season for an emergency change in vessel designation. If such an emergency request is made, the director may allow a temporary change in designation to another vessel, if the hull length of the other vessel does not exceed by more than ten feet the hull length of the currently designated vessel.

(2) For the purposes of this section, "hull length" means the length overall of a vessel's hull as shown by marine survey or by manufacturer's specifications.

(3) By December 31, 2010, the department must, in cooperation with the coastal crab fishing industry, evaluate the effectiveness of this section and, if necessary, recommend any statutory changes to the appropriate committees of the senate and house of representatives.

Sec. 14. RCW 77.70.150 and 2005 c 110 s 1 are each amended to read as follows:

(1) A sea urchin dive fishery license is required to take sea urchins for commercial purposes. A sea urchin dive fishery license authorizes the use of only one diver in the water at any time during sea urchin harvest operations. If the same vessel has been designated on two sea urchin dive fishery licenses, two divers may be in the water. A natural person may not hold more than two sea urchin dive fishery licenses.

(2) Except as provided in subsection (6) of this section, the director shall issue no new sea urchin dive fishery licenses. For licenses issued for the year 2000 and thereafter, the director shall renew existing licenses only to a natural person who held the license at the end of the previous year. If a sea urchin dive fishery license is not held by a natural person as of December 31, 1999, it is not renewable. However, if the license is not held because of revocation or suspension of licensing privileges, the director shall renew the license in the name of a natural person at the end of the revocation or suspension if the license holder applies for renewal of the license before the end of the year in which the revocation or suspension ends.

(3) Where a licensee failed to obtain the license during the previous year because of a license suspension or revocation by the director or the court, the licensee may qualify for a license by establishing that the person held such a license during the last year in which the person was eligible.

(4) Surcharges as provided for in this section shall be collected and deposited into the sea urchin dive fishery account hereby created in the custody of the state treasurer. The collections and deposits must continue, as set forth in (a) and (b) of this subsection, through license year 2013, or until the number of licenses is reduced to twenty, whichever occurs first. Only the director or the director's designee may authorize expenditures from the account. The sea

urchin dive fishery account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. Expenditures from the account shall only be used to retire sea urchin licenses until the number of licenses is reduced to ~~((twenty-five))~~ twenty, and thereafter shall only be used for sea urchin management and enforcement. The director or the director's designee shall notify the department of revenue within thirty days when the number of licenses is reduced to twenty.

(a) A surcharge of one hundred dollars shall be charged with each sea urchin dive fishery license renewal for licenses issued ~~((in))~~ for license years 2000 through ((2010)) 2013, or until the number of licenses is reduced to twenty, whichever occurs first.

(b) For licenses issued for ~~((the year))~~ license years 2000 ((and thereafter)) through 2013, or until the number of licenses is reduced to twenty, whichever occurs first, a surcharge shall be charged on the sea urchin dive fishery license for designating an alternate operator. The surcharge shall be as follows: Five hundred dollars for the first year or each of the first two consecutive years after 1999 that any alternate operator is designated and two thousand five hundred dollars each year thereafter that any alternate operator is designated.

(5) Sea urchin dive fishery licenses are transferable. ~~((After December 31, 1999,))~~ For licenses issued for license years 2000 through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first, there is a surcharge to transfer a sea urchin dive fishery license. The surcharge is five hundred dollars for the first transfer of a license valid for ~~((calendar))~~ license year 2000, and two thousand five hundred dollars for any subsequent transfer, ~~((whether))~~ occurring in the ((year)) license years 2000 ((or thereafter)) through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first. Notwithstanding this subsection, a one-time transfer exempt from surcharge applies for a transfer from the natural person licensed on January 1, 2000, to that person's spouse or child.

(6) If fewer than ~~((twenty-five))~~ twenty natural persons are eligible for sea urchin dive fishery licenses, the director may accept applications for new licenses. The additional licenses may not cause more than ~~((twenty-five))~~ twenty natural persons to be eligible for a sea urchin dive fishery license. New licenses issued under this section shall be distributed according to rules of the department that recover the value of such licensed privilege.

Sec. 15. RCW 77.70.190 and 2005 c 110 s 2 are each amended to read as follows:

(1) A sea cucumber dive fishery license is required to take sea cucumbers for commercial purposes. A sea cucumber dive fishery license authorizes the use of only one diver in the water at any time during sea cucumber harvest operations. If the same vessel has been designated on two sea cucumber dive fishery licenses, two divers may be in the water. A natural person may not hold more than two sea cucumber dive fishery licenses.

(2) Except as provided in subsection (6) of this section, the director shall issue no new sea cucumber dive fishery licenses. For licenses issued for the year 2000 and thereafter, the director shall renew existing licenses only to a natural person who held the license at the end of the previous year. If a sea cucumber dive fishery license is not held by a natural person as of December 31, 1999, it is not renewable. However, if the license is not held because of revocation or suspension of licensing privileges, the director shall renew the license in the name of a natural person at the end of the revocation or suspension if the license holder applies for renewal of the license before the end of the year in which the revocation or suspension ends.

(3) Where a licensee failed to obtain the license during either of the previous two years because of a license suspension by the director or the court, the licensee may qualify for a license by establishing that the person held such a license during the last year in which the person was eligible.

(4) Surcharges as provided for in this section shall be collected and deposited into the sea cucumber dive fishery account hereby created in the custody of the state treasurer. The collections and deposits must continue, as set forth in (a) and (b) of this subsection, through license year 2013, or until the number of licenses is reduced to twenty, whichever occurs first. Only the director or the director's designee may authorize expenditures from the account. The sea cucumber dive fishery account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. Expenditures from the account shall only be used to retire sea cucumber licenses until the number of licenses is reduced to ~~((twenty-five))~~ twenty, and thereafter shall only be used for sea cucumber management and enforcement. The director or the director's designee shall notify the department of revenue within thirty days when the number of licenses is reduced to twenty.

(a) A surcharge of one hundred dollars shall be charged with each sea cucumber dive fishery license renewal for licenses issued in 2000 through ~~((2010))~~ 2013, or until the number of licenses is reduced to twenty, whichever occurs first.

(b) For licenses issued for ~~((the year))~~ license years 2000 ((and thereafter,)) through 2013, or until the number of licenses is reduced to twenty, whichever occurs first, a surcharge shall be charged on the sea cucumber dive fishery license for designating an alternate operator. The surcharge shall be as follows: Five hundred dollars for the first year or each of the first two consecutive years after 1999 that any alternate operator is designated and two thousand five hundred dollars each year thereafter that any alternate operator is designated.

(5) Sea cucumber dive fishery licenses are transferable. ~~((After December 31, 1999,))~~ For licenses issued for license years 2000 through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first, there is a surcharge to transfer a sea cucumber dive fishery license. The surcharge is five hundred dollars for the first transfer of a license valid for ~~((calendar))~~ license year 2000 and two thousand five hundred dollars for any subsequent transfer ((whether)), occurring in the ((year)) license years 2000 ((or thereafter)) through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first. Notwithstanding this subsection, a one-time transfer exempt from surcharge applies for a transfer from the natural person licensed on January 1, 2000, to that person's spouse or child.

(6) If fewer than ~~((twenty-five))~~ twenty persons are eligible for sea cucumber dive fishery licenses, the director may accept applications for new licenses. The additional licenses may not cause more than ~~((twenty-five))~~ twenty natural persons to be eligible for a sea cucumber dive fishery license. New licenses issued under this section shall be distributed according to rules of the department that recover the value of such licensed privilege.

Sec. 16. RCW 82.27.020 and 2005 c 110 s 3 are each amended to read as follows:

(1) In addition to all other taxes, licenses, or fees provided by law there is established an excise tax on the commercial possession of enhanced food fish as provided in this chapter. The tax is levied upon and shall be collected from the owner of the enhanced food fish whose possession constitutes the taxable event. The taxable event is the first possession in Washington by an owner after the enhanced food fish has been landed. Processing and handling of enhanced food fish by a person who is not the owner is not a taxable event to the processor or handler.

(2) A person in possession of enhanced food fish and liable to this tax may deduct from the price paid to the person from which the enhanced food fish (except oysters) are purchased an amount equal to a tax at one-half the rate levied in this section upon these products.

(3) The measure of the tax is the value of the enhanced food fish at the point of landing.

(4) The tax shall be equal to the measure of the tax multiplied by the rates for enhanced food fish as follows:

(a) Chinook, coho, and chum salmon and anadromous game fish: Five and twenty-five one-hundredths percent;

(b) Pink and sockeye salmon: Three and fifteen one-hundredths percent;

(c) Other food fish and shellfish, except oysters, sea urchins, and sea cucumbers: Two and one-tenth percent;

(d) Oysters: Eight one-hundredths of one percent;

(e) Sea urchins: Four and six-tenths percent through December 31, ~~((2010))~~ 2013, or until the department of fish and wildlife notifies the department that the number of sea urchin licenses has been reduced to twenty licenses, whichever occurs first, and two and one-tenth percent thereafter; and

(f) Sea cucumbers: Four and six-tenths percent through December 31, ~~((2010))~~ 2013, or until the department of fish and wildlife notifies the department that the number of sea cucumber licenses has been reduced to twenty licenses, whichever occurs first, and two and one-tenth percent thereafter.

(5) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (4) of this section.

Sec. 17. RCW 82.27.070 and 2005 c 110 s 4 are each amended to read as follows:

All taxes collected by the department of revenue under this chapter shall be deposited in the state general fund except for the excise tax on anadromous game fish, which shall be deposited in the state wildlife ((fund, and, during the period)) account. From January 1, 2000, to December 31, ((2010)) 2013, or until the department of fish and wildlife notifies the department that the license reduction goals of the sea urchin or sea cucumber fishery have been met, whichever occurs first, twenty-five forty-sixths of the revenues derived from the excise tax on sea urchins collected under RCW 82.27.020 shall be deposited into the sea urchin dive fishery account created in RCW 77.70.150, and twenty-five forty-sixths of the revenues derived from the excise tax on sea cucumbers collected under RCW 82.27.020 shall be deposited into the sea cucumber dive fishery account created in RCW 77.70.190."

On page 1, line 2 of the title, after "resources;" strike the remainder of the title and insert "amending RCW 77.70.500, 77.15.520, 77.15.380, 63.21.080, 77.12.865, 77.12.870, 77.15.750, 77.55.041, 77.32.430, 77.70.350, 77.70.150, 77.70.190, 82.27.020, and 82.27.070; adding new sections to chapter 77.15 RCW; prescribing penalties; and providing an expiration date."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2593 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Rolfes and Chandler 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. 2593, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2593, as amended by the Senate, and the bill passed the House by the following vote: Yeas: 95 Nays: 0 Absent: 0 Excused: 3

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Chopp, Clibborn, Cody, Condotta, Conway, Crouse, Dammeier, Darneille, DeBolt, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, 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, and Wood

Excused: Representatives Dickerson, Hope, and Hurst

SUBSTITUTE HOUSE BILL NO. 2593, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 2621 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature has made a commitment to support multiple strategies to improve teaching and learning of science, technology, engineering, and mathematics in Washington's public schools. In recent years, Washington has adopted new technology, mathematics, and science learning standards; initiated funding for middle schools to provide a career and technical program in science, technology, engineering, and mathematics at the same rate as a high school operating a similar program; provided professional development for mathematics and science teachers; created a scholarship program to encourage students to enter mathematics and science degree programs; supported career and technical education in high-demand fields; and authorized alternative ways for teachers to earn certification in the mathematics and science fields.

(2) At the local level, school districts and their communities are also finding new ways to improve teaching and learning of science, technology, engineering, and mathematics. Some districts have combined several best practices into promising learning models for students. For example, Aviation high school in the Highline school district offers a small, highly personalized learning community that is focused on interdisciplinary immersion in science, technology, engineering, and mathematics using a hands-on, project-based curriculum. Delta high school in the Tri-Cities is a collaboration among three school districts, a skill center, two institutions of higher education, a community foundation, and local business leaders. The science and math institute at Point Defiance in Tacoma offers students field-based applied learning using the natural, historical, and community resources of a large metropolitan park. These schools draw students from across regions who are seeking an exciting, rigorous, and nontraditional learning experience. Other schools and communities across the state are seeking to replicate these innovative learning models.

(3) The legislature intends to support continued expansion of the type of innovation and creativity displayed by Aviation, Delta, and the science and math institute by designating so-called "lighthouse" high schools to serve as resources and examples of best practices in science, technology, engineering, and mathematics instruction.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.630 RCW to read as follows:

(1) Subject to funds appropriated for this purpose, the superintendent of public instruction shall designate up to three middle schools and up to three high schools to serve as resources and examples of how to combine the following best practices:

(a) A small, highly personalized learning community;

(b) An interdisciplinary curriculum with a strong focus on science, technology, engineering, and mathematics delivered through a project-based instructional approach; and

(c) Active partnerships with businesses and the local community to connect learning beyond the classroom.

(2) The designated middle and high schools shall serve as lighthouse programs and provide technical assistance and advice to other middle and high schools and communities in the initial stages of creating an alternative learning environment focused on science, technology, engineering, and mathematics. The designated middle and high schools must have proven experience and be recognized as model programs.

(3) In addition, the office of the superintendent of public instruction shall work with the designated middle and high schools to publicize the models of best practices in science, technology, engineering, and mathematics instruction used by the designated middle and high schools and shall encourage other middle and high schools and communities to work with the designated middle and high schools to replicate similar models."

On page 1, line 2 of the title, after "schools;" strike the remainder of the title and insert "adding a new section to chapter 28A.630 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 2621 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Orwall and Priest 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. 2621, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2621, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Dammeier, Darneille, DeBolt, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz,

Kristiansen, Lias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Dickerson, Hope and Hurst.

HOUSE BILL NO. 2621, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2686 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 48.20 RCW to read as follows:

(1) Notwithstanding any other provisions of law, no disability insurance policy of any disability insurer as provided in this chapter subject to the jurisdiction of the state of Washington that covers any dental services, and no contract or participating provider agreement with a dentist may:

(a) Require, directly or indirectly, that a dentist who is a participating provider provide services to a subscriber at a fee set by, or at a fee subject to the approval of, the disability insurer unless the dental services are covered services, including services that would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations, under the applicable disability insurance policy; nor

(b) Prohibit, directly or indirectly, a dentist who is a participating provider from offering or providing to a subscriber dental services that are not covered services on any terms or conditions acceptable to the dentist and the subscriber.

(2) For the purposes of this section, "covered services" means dental services that are reimbursable under the applicable insurance policy or subscriber agreement or would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods or frequency limitations.

NEW SECTION. Sec. 2. A new section is added to chapter 48.21 RCW to read as follows:

(1) Notwithstanding any other provisions of law, no group disability insurance contract or blanket disability insurance contract of any disability insurer as provided for in this chapter subject to the jurisdiction of the state of Washington that covers any dental services, and no contract or participating provider agreement with a dentist may:

(a) Require, directly or indirectly, that a dentist who is a participating provider provide services to a subscriber at a fee set by, or at a fee subject to the approval of, the disability insurer unless the dental services are covered services, including services that would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations, under the applicable group plan or disability insurance policy; nor

(b) Prohibit, directly or indirectly, a dentist who is a participating provider from offering or providing to a subscriber dental services that are not covered services on any terms or conditions acceptable to the dentist and the subscriber.

(2) For the purposes of this section, "covered services" means dental services that are reimbursable under the applicable insurance policy, group plan, or subscriber agreement or would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods or frequency limitations.

NEW SECTION. Sec. 3. A new section is added to chapter 48.44 RCW to read as follows:

(1) Notwithstanding any other provisions of law, no contract of any health care service contractor subject to the jurisdiction of the state of Washington that covers any dental services, and no contract or participating provider agreement with a dentist may:

(a) Require, directly or indirectly, that a dentist who is a participating provider provide services to an enrolled participant at a fee set by, or at a fee subject to the approval of, the health care service contractor unless the dental services are covered services, including services that would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations, under the applicable group contract or individual contract; nor

(b) Prohibit, directly or indirectly, a dentist who is a participating provider from offering or providing to an enrolled participant dental services that are not covered services on any terms or conditions acceptable to the dentist and the enrolled participant.

(2) For the purposes of this section, "covered services" means dental services that are reimbursable under the applicable subscriber agreement or would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods or frequency limitations."

On page 1, line 3 of the title, after "contracts;" strike the remainder of the title and insert "adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; and adding a new section to chapter 48.44 RCW."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2686 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Driscoll 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. 2686, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2686, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Dammeier, Darneille, DeBolt, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Jacks,

Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Lias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Dickerson, Hope and Hurst.

SUBSTITUTE HOUSE BILL NO. 2686, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2752 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that youth services provide safety to youth on the streets and are a critical pathway to ensuring the youth's return home. Runaway youth are without protection, live under the threat of violence, and fall victim to predators who exploit their vulnerability. The policy of this state is to provide assistance to youth in crisis and to protect and preserve families. In order to effectively serve youth on the streets and promote their safe return home, shelters must have the time to establish and maintain an environment that facilitates open communication and trust.

The legislature also finds that parents of runaway youth have an interest in knowing their sons and daughters are safe in a shelter, rather than on the streets without protection. The legislature further finds that law enforcement and the department can notify a parent that the youth is safe, without disclosing the youth's location or compromising the ability of youth services providers to effectively assist youth in crisis.

Sec. 2. RCW 13.32A.082 and 2000 c 123 s 10 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, any person, including unlicensed youth shelters or runaway and homeless youth programs, who, without legal authorization, provides shelter to a minor and who knows at the time of providing the shelter that the minor is away from the parent's home without the permission of the parent, or other lawfully prescribed residence, shall promptly report the location of the child to the parent, the law enforcement agency of the jurisdiction in which the person lives, or the department. ((The report))

(b)(i) If a licensed overnight youth shelter, or another licensed organization whose stated mission is to provide services to homeless or runaway youth and their families, provides shelter to a minor and knows at the time of providing the shelter that the minor is away from a lawfully prescribed residence or home without parental permission, it shall contact the youth's parent, preferably within twenty-four hours but within no more than seventy-two hours following the time that the youth is admitted to the shelter or other licensed organization's program. The notification must include the whereabouts of the youth, a description of the youth's physical and emotional condition, and the circumstances surrounding the youth's contact with the shelter or organization. If there are compelling reasons not to notify the parent, the shelter or organization shall instead notify the department.

(ii) At least once every eight hours after learning that a youth receiving services or shelter under this section is away from home

without permission, the shelter or organization staff must consult the information that the Washington state patrol makes publicly available under RCW 43.43.510(2). If the youth is publicly listed as missing, the shelter or organization shall immediately notify the department of its contact with the youth listed as missing. The notification must include a description of the youth's physical and emotional condition and the circumstances surrounding the youth's contact with the shelter or organization.

(c) Reports required under this section may be made by telephone or any other reasonable means.

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

(a) "Shelter" means the person's home or any structure over which the person has any control.

(b) "Promptly report" means to report within eight hours after the person has knowledge that the minor is away from a lawfully prescribed residence or home without parental permission.

(c) "Compelling reasons" include, but are not limited to, circumstances that indicate that notifying the parent or legal guardian will subject the child to abuse or neglect as defined in chapter 26.44 RCW.

(3) When the department receives a report under subsection (1) of this section, it shall make a good faith attempt to notify the parent that a report has been received and offer services designed to resolve the conflict and accomplish a reunification of the family.

(4) Nothing in this section prohibits any person from immediately reporting the identity and location of any minor who is away from a lawfully prescribed residence or home without parental permission more promptly than required under this section.

(5) This section expires on July 1, 2012.

NEW SECTION. Sec. 3. A new section is added to chapter 13.32A RCW to read as follows:

A private right of action or claim on the part of a parent is created against an unlicensed youth shelter or unlicensed runaway and homeless youth program who fails to meet the notification requirements in RCW 13.32A.082(1)(a).

Sec. 4. RCW 43.43.510 and 1998 c 67 s 2 are each amended to read as follows:

(1) As soon as is practical and feasible there shall be established, by means of data processing, files listing stolen and wanted vehicles, outstanding warrants, identifying children whose parents, custodians, or legal guardians have reported as having run away from home or the custodial residence, identifiable stolen property, files maintaining the central registry of sex offenders required to register under chapter 9A.44 RCW, and such other files as may be of general assistance to law enforcement agencies.

(2)(a) At the request of a parent, legal custodian, or guardian who has reported a child as having run away from home or the custodial residence, the Washington state patrol shall make the information about the runaway child as is filed in subsection (1) of this section publicly available.

(b) The information that can be made publicly available under (a) of this subsection is limited to the information that will facilitate the safe return of the child to his or her home or custodial residence and so long as making the information publicly available incurs no additional costs."

On page 1, line 1 of the title, after "youth;" strike the remainder of the title and insert "amending RCW 13.32A.082 and 43.43.510; adding a new section to chapter 13.32A RCW; creating a new section; and providing an expiration date."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2752 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representatives Kagi and Haler 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. 2752, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2752, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 91; Nays, 4; Absent, 0; Excused, 3.

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

Voting nay: Representatives Condotta, DeBolt, Erickson and Herrera.

Excused: Representatives Dickerson, Hope and Hurst.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2752, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2777 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"PART ONE
INTENT**

NEW SECTION. **Sec. 101.** The legislature intends to improve the lives of persons who suffer from the adverse effects of domestic violence and to require reasonable, coordinated measures to prevent domestic violence from occurring. The legislature intends to give law enforcement and the courts better tools to identify violent perpetrators of domestic violence and hold them accountable. The legislature intends to: Increase the safety afforded to individuals who seek protection of public and private agencies involved in domestic violence prevention; improve the ability of agencies to address the needs of victims and their children and the delivery of services; upgrade the quality of treatment programs; and enhance the ability of the justice system

to respond quickly and fairly to domestic violence. In order to improve the lives of persons who have, or may suffer, the effects of domestic violence the legislature intends to achieve more uniformity in the decision-making processes at public and private agencies that address domestic violence by reducing inconsistencies and duplications allowing domestic violence victims to achieve safety and stability in their lives.

PART TWO

LAW ENFORCEMENT/ARREST PROVISIONS

Sec. 201. RCW 10.31.100 and 2006 c 138 s 23 are each amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (10) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.90, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) A foreign protection order, as defined in RCW 26.52.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime; or

(c) The person is sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or

serious threats creating fear of physical injury; and (iii) the history of domestic violence ~~((between the))~~ of each person(s) involved, including whether the conduct was part of an ongoing pattern of abuse.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(f) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

(6) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(7) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(8) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(9) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(10) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(11) Except as specifically provided in subsections (2), (3), (4), and (6) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(12) No police officer may be held criminally or civilly liable for making an arrest pursuant to ~~((RCW 10.31.100))~~ subsection (2) or (8) of this section if the police officer acts in good faith and without malice.

NEW SECTION. Sec. 202. A new section is added to chapter 36.28A RCW to read as follows:

(1)(a) When funded, the Washington association of sheriffs and police chiefs shall convene a work group to develop a model policy regarding the reporting of domestic violence as defined in RCW 10.99.020 to law enforcement in cases where the victim is unable or

unwilling to make a report in the jurisdiction where the alleged crime occurred.

(b) The model policy must include policies and procedures related to:

(i) Collecting and securing evidence; and

(ii) Creating interlocal agreements between law enforcement agencies.

(2) In developing the model policy under subsection (1)(a) of this section, the association shall consult with appropriate stakeholders and government agencies.

PART THREE

NO-CONTACT AND PROTECTION ORDERS

Sec. 301. RCW 10.99.045 and 2000 c 119 s 19 are each amended to read as follows:

(1) A defendant arrested for an offense involving domestic violence as defined by RCW 10.99.020 shall be required to appear in person before a magistrate within one judicial day after the arrest.

(2) A defendant who is charged by citation, complaint, or information with an offense involving domestic violence as defined by RCW 10.99.020 and not arrested shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

(3)(a) At the time of the appearances provided in subsection (1) or (2) of this section, the court shall determine the necessity of imposing a no-contact order or other conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment. The court may include in the order any conditions authorized under RCW 9.41.800 and 10.99.040.

(b) For the purposes of (a) of this subsection, the prosecutor shall provide for the court's review:

(i) The defendant's criminal history, if any, that occurred in Washington or any other state;

(ii) If available, the defendant's criminal history that occurred in any tribal jurisdiction; and

(iii) The defendant's individual order history.

(c) For the purposes of (b) of this subsection, criminal history includes all previous convictions and orders of deferred prosecution, as reported through the judicial information system or otherwise available to the court or prosecutor, current to within the period specified in (d) of this subsection before the date of the appearance.

(d) The periods applicable to previous convictions and orders of deferred prosecution are:

(i) One working day, in the case of previous actions of courts that fully participate in the state judicial information system; and

(ii) Seven calendar days, in the case of previous actions of courts that do not fully participate in the judicial information system. For the purposes of this subsection, "fully participate" means regularly providing records to and receiving records from the system by electronic means on a daily basis.

(4) Appearances required pursuant to this section are mandatory and cannot be waived.

(5) The no-contact order shall be issued and entered with the appropriate law enforcement agency pursuant to the procedures outlined in RCW 10.99.040 (2) and ~~((4))~~ (6).

Sec. 302. RCW 26.50.020 and 1992 c 111 s 8 are each amended to read as follows:

(1)(a) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

(b) Any person thirteen years of age or older may seek relief under this chapter by filing a petition with a court alleging that he or she has

been the victim of violence in a dating relationship and the respondent is sixteen years of age or older.

(2)(a) A person under eighteen years of age who is sixteen years of age or older may seek relief under this chapter and is not required to seek relief by a guardian or next friend.

(b) A person under sixteen years of age who is seeking relief under subsection (1)(b) of this section is required to seek relief by a parent, guardian, guardian ad litem, or next friend.

(3) No guardian or guardian ad litem need be appointed on behalf of a respondent to an action under this chapter who is under eighteen years of age if such respondent is sixteen years of age or older.

(4) The court may, if it deems necessary, appoint a guardian ad litem for a petitioner or respondent who is a party to an action under this chapter.

(5) The courts defined in RCW 26.50.010(~~((3))~~) (4) have jurisdiction over proceedings under this chapter. The jurisdiction of district and municipal courts under this chapter shall be limited to enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders for protection provided for in RCW 26.50.070 if: (a) A superior court has exercised or is exercising jurisdiction over a proceeding under this title or chapter 13.34 RCW involving the parties; (b) the petition for relief under this chapter presents issues of residential schedule of and contact with children of the parties; or (c) the petition for relief under this chapter requests the court to exclude a party from the dwelling which the parties share. When the jurisdiction of a district or municipal court is limited to the issuance and enforcement of a temporary order, the district or municipal court shall set the full hearing provided for in RCW 26.50.050 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court shall have concurrent jurisdiction with the superior court to extend the order for protection.

(6) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid abuse. In that case, the petitioner may bring an action in the county or municipality of the previous or the new household or residence.

(7) A person's right to petition for relief under this chapter is not affected by the person leaving the residence or household to avoid abuse.

(8) For the purposes of this section "next friend" means any competent individual, over eighteen years of age, chosen by the minor and who is capable of pursuing the minor's stated interest in the action.

NEW SECTION. Sec. 303. A new section is added to chapter 26.50 RCW to read as follows:

(1) The administrative office of the courts shall update the law enforcement information form which it provides for the use of a petitioner who is seeking an ex parte protection order in such a fashion as to prompt the person to disclose on the form whether the person who the petitioner is seeking to restrain has a disability, brain injury, or impairment requiring special assistance.

(2) Any peace officer who serves a protection order on a respondent with the knowledge that the respondent requires special assistance due to a disability, brain injury, or impairment shall make a reasonable effort to accommodate the needs of the respondent to the extent practicable without compromise to the safety of the petitioner.

Sec. 304. RCW 26.50.060 and 2009 c 439 s 2 are each amended to read as follows:

(1) Upon notice and after hearing, the court may provide relief as follows:

(a) Restrain the respondent from committing acts of domestic violence;

(b) Exclude the respondent from the dwelling that the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;

(c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(e) Order the respondent to participate in a domestic violence perpetrator treatment program approved under RCW 26.50.150;

(f) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;

(g) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys' fees;

(h) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household;

(i) Restrain the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260;

(j) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must 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 respondent to pay for electronic monitoring;

(~~((j))~~) (k) Consider the provisions of RCW 9.41.800;

(~~((k))~~) (l) Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included. Personal effects may include pets. The court may order that a petitioner be granted the exclusive custody or control of any pet owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child residing with either the petitioner or respondent and may prohibit the respondent from interfering with the petitioner's efforts to remove the pet. The court may also prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the pet is regularly found; and

(~~((l))~~) (m) Order use of a vehicle.

(2) If a protection order restrains the respondent from contacting the respondent's minor children the restraint shall be for a fixed period not to exceed one year. This limitation is not applicable to orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW. With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09 or 26.26 RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for

renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123. If the court permits service by publication or mail, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection (1)(g) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service, service by publication, or service by mail and whether the court has approved service by publication or mail of an order issued under this section.

(7) If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial.

Sec. 305. RCW 26.50.070 and 2000 c 119 s 16 are each amended to read as follows:

(1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

- (a) Restraining any party from committing acts of domestic violence;
- (b) Restraining any party from going onto the grounds of or entering the dwelling that the parties share, from the residence, workplace, or school of the other, or from the day care or school of a child until further order of the court;
- (c) Prohibiting any party from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;
- (d) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court;

(e) Restraining any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household; ~~(and)~~

(f) Considering the provisions of RCW 9.41.800; ~~and~~

(g) Restraining the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260.

(2) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

(3) The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

(4) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication or by mail is permitted. Except as provided in RCW 26.50.050, 26.50.085, and 26.50.123, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

(5) Any order issued under this section shall contain the date and time of issuance and the expiration date and shall be entered into a statewide judicial information system by the clerk of the court within one judicial day after issuance.

(6) If the court declines to issue an ex parte temporary order for protection the court shall state the particular reasons for the court's denial. The court's denial of a motion for an ex parte order of protection shall be filed with the court.

NEW SECTION. Sec. 306. A new section is added to chapter 26.50 RCW to read as follows:

(1) In a proceeding in which a petition for an order for protection under this chapter is sought, a court of this state may exercise personal jurisdiction over a nonresident individual if:

- (a) The individual is personally served with a petition within this state;
- (b) The individual submits to the jurisdiction of this state by consent, entering a general appearance, or filing a responsive document having the effect of waiving any objection to consent to personal jurisdiction;
- (c) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred within this state;
- (d)(i) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred outside this state and are part of an ongoing pattern of domestic violence or stalking that has an adverse effect on the petitioner or a member of the petitioner's family or household and the petitioner resides in this state; or
- (ii) As a result of acts of domestic violence or stalking, the petitioner or a member of the petitioner's family or household has sought safety or protection in this state and currently resides in this state; or

(e) There is any other basis consistent with RCW 4.28.185 or with the Constitutions of this state and the United States.

(2) For jurisdiction to be exercised under subsection (1)(d)(i) or (ii) of this section, the individual must have communicated with the

petitioner or a member of the petitioner's family, directly or indirectly, or made known a threat to the safety of the petitioner or member of the petitioner's family while the petitioner or family member resides in this state. For the purposes of subsection (1)(d)(i) or (ii) of this section, "communicated or made known" includes, but is not limited to, through the mail, telephonically, or a posting on an electronic communication site or medium. Communication on any electronic medium that is generally available to any individual residing in the state shall be sufficient to exercise jurisdiction under subsection (1)(d)(i) or (ii) of this section.

(3) For the purposes of this section, an act or acts that "occurred within this state" includes, but is not limited to, an oral or written statement made or published by a person outside of this state to any person in this state by means of the mail, interstate commerce, or foreign commerce. Oral or written statements sent by electronic mail or the internet are deemed to have "occurred within this state."

NEW SECTION. Sec. 307. A new section is added to chapter 7.90 RCW to read as follows:

(1) In a proceeding in which a petition for a sexual assault protection order is sought under this chapter, a court of this state may exercise personal jurisdiction over a nonresident individual if:

(a) The individual is personally served with a petition within this state;

(b) The individual submits to the jurisdiction of this state by consent, entering a general appearance, or filing a responsive document having the effect of waiving any objection to consent to personal jurisdiction;

(c) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of a sexual assault protection order occurred within this state;

(d)(i) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of a sexual assault protection order occurred outside this state and are part of an ongoing pattern of sexual assaults or stalking that has an adverse effect on the petitioner or a member of the petitioner's family or household and the petitioner resides in this state; or

(ii) As a result of acts of stalking or a sexual assault, the petitioner or a member of the petitioner's family or household has sought safety or protection in this state and currently resides in this state; or

(e) There is any other basis consistent with RCW 4.28.185 or with the constitutions of this state and the United States.

(2) For jurisdiction to be exercised under subsection (1)(d)(i) or (ii) of this section, the individual must have communicated with the petitioner or a member of the petitioner's family, directly or indirectly, or made known a threat to the safety of the petitioner or member of the petitioner's family while the petitioner or family member resides in this state. For the purposes of subsection (1)(d)(i) or (ii) of this section, "communicated or made known" includes, but is not limited to, through the mail, telephonically, or a posting on an electronic communication site or medium. Communication on any electronic medium that is generally available to any individual residing in the state shall be sufficient to exercise jurisdiction under subsection (1)(d)(i) or (ii) of this section.

(3) For the purposes of this section, an act or acts that "occurred within this state" includes, but is not limited to, an oral or written statement made or published by a person outside of this state to any person in this state by means of the mail, interstate commerce, or foreign commerce. Oral or written statements sent by electronic mail or the internet are deemed to have "occurred within this state."

NEW SECTION. Sec. 308. A new section is added to chapter 10.14 RCW to read as follows:

(1) In a proceeding in which a petition for an order for protection under this chapter is sought, a court of this state may exercise personal jurisdiction over a nonresident individual if:

(a) The individual is personally served with a petition within this state;

(b) The individual submits to the jurisdiction of this state by consent, entering a general appearance, or filing a responsive document having the effect of waiving any objection to consent to personal jurisdiction;

(c) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred within this state;

(d)(i) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred outside this state and are part of an ongoing pattern of harassment that has an adverse effect on the petitioner or a member of the petitioner's family or household and the petitioner resides in this state; or

(ii) As a result of acts of harassment, the petitioner or a member of the petitioner's family or household has sought safety or protection in this state and currently resides in this state; or

(e) There is any other basis consistent with RCW 4.28.185 or with the constitutions of this state and the United States.

(2) For jurisdiction to be exercised under subsection (1)(d)(i) or (ii) of this section, the individual must have communicated with the petitioner or a member of the petitioner's family, directly or indirectly, or made known a threat to the safety of the petitioner or member of the petitioner's family while the petitioner or family member resides in this state. For the purposes of subsection (1)(d)(i) or (ii) of this section, "communicated or made known" includes, but is not limited to, through the mail, telephonically, or a posting on an electronic communication site or medium. Communication on any electronic medium that is generally available to any individual residing in the state shall be sufficient to exercise jurisdiction under subsection (1)(d)(i) or (ii) of this section.

(3) For the purposes of this section, an act or acts that "occurred within this state" includes, but is not limited to, an oral or written statement made or published by a person outside of this state to any person in this state by means of the mail, interstate commerce, or foreign commerce. Oral or written statements sent by electronic mail or the internet are deemed to have "occurred within this state."

Sec. 309. RCW 10.99.040 and 2000 c 119 s 18 are each amended to read as follows:

(1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his or her client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2)(a) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, by telephone, a no-contact order prohibiting the person charged or arrested from having contact with the victim or from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(b) In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(c) The no-contact order shall also be issued in writing as soon as possible. By January 1, 2011, the administrative office of the courts shall develop a pattern form for all no-contact orders issued under this chapter. A no-contact order issued under this chapter must substantially comply with the pattern form developed by the administrative office of the courts.

(3) At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended. The no-contact order shall terminate if the defendant is acquitted or the charges are dismissed. If a no-contact order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring.

(4)(a) Willful violation of a court order issued under subsection (2) or (3) of this section is punishable under RCW 26.50.110.

(b) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest; any assault, drive-by shooting, or reckless endangerment that is a violation of this order is a felony. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

(c) A certified copy of the order shall be provided to the victim.

(5) If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed. Such orders need not be entered into the computer-based criminal intelligence information system in this state which is used by law enforcement agencies to list outstanding warrants.

(6) Whenever a no-contact order is issued, modified, or terminated under subsection (2) or (3) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. Upon receipt of notice that an order has been terminated under subsection (3) of this section, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system.

(7) All courts shall develop policies and procedures by January 1, 2011, to grant victims a process to modify or rescind a no-contact order issued under this chapter. The administrative office of the courts shall develop a model policy to assist the courts in implementing the requirements of this subsection.

NEW SECTION. Sec. 310. A new section is added to chapter 2.56 RCW to read as follows:

(1) The administrative office of the courts shall develop guidelines by December 1, 2011, for all courts to establish a process to reconcile duplicate or conflicting no-contact or protection orders issued by courts in this state.

(2) The guidelines developed under subsection (1) of this section must include:

(a) A process to allow any party named in a no-contact or protection order to petition for the purpose of reconciling duplicate or conflicting orders; and

(b) A procedure to address no-contact and protection order data sharing between court jurisdictions in this state.

(3) By January 1, 2011, the administrative office of the courts shall provide a report back to the legislature concerning the progress made to develop the guidelines required by this section.

PART FOUR SENTENCING REFORMS

Sec. 401. RCW 9.94A.030 and 2009 c 375 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that

was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

- (a) To gain admission, prestige, or promotion within the gang;
- (b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;
- (c) To exact revenge or retribution for the gang or any member of the gang;
- (d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;
- (e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or
- (f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial

obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

~~((21))~~ (21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

~~((21))~~ (22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

~~((22))~~ (23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

~~((23))~~ (24) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

~~((24))~~ (25) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

~~((25))~~ (26) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

~~((26))~~ (27) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

~~((27))~~ (28) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

~~((28))~~ (29) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

~~((29))~~ (30) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

- (b) Assault in the second degree;
- (c) Assault of a child in the second degree;
- (d) Child molestation in the second degree;
- (e) Controlled substance homicide;
- (f) Extortion in the first degree;
- (g) Incest when committed against a child under age fourteen;
- (h) Indecent liberties;
- (i) Kidnapping in the second degree;
- (j) Leading organized crime;
- (k) Manslaughter in the first degree;
- (l) Manslaughter in the second degree;
- (m) Promoting prostitution in the first degree;
- (n) Rape in the third degree;
- (o) Robbery in the second degree;
- (p) Sexual exploitation;

(q) 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;

(r) 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;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, 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 most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under Title 9 or 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

~~((30))~~ (31) "Nonviolent offense" means an offense which is not a violent offense.

~~((31))~~ (32) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a

misdemeanor or gross misdemeanor probationer convicted of an offense included in RCW 9.94A.501(1) and ordered by a superior court to probation under the supervision of the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

~~((32))~~ (33) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

~~((33))~~ (34) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

~~((34))~~ (35) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate

occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection ~~((34))~~ (35)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

~~((35))~~ (36) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; or (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority.

~~((36))~~ (37) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

~~((37))~~ (38) "Public school" has the same meaning as in RCW 28A.150.010.

~~((38))~~ (39) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

(40) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

~~((39))~~ (41) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

~~((40))~~ (42) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

~~((41))~~ (43) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) 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 violent offense under (a) of this subsection.

~~((42))~~ (44) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(12);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

~~((43))~~ (45) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

~~((44))~~ (46) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

~~((45))~~ (47) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

~~((46))~~ (48) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

~~((47))~~ (49) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

~~((48))~~ (50) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

~~((49))~~ (51) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

~~((50))~~ (52) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) 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; and

(xiv) 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;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

~~((51))~~ (53) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

~~((52))~~ (54) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

~~((53))~~ (55) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 402. RCW 9.94A.535 and 2008 c 276 s 303 and 2008 c 233 s 9 are each reenacted and amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(i) The current offense involved domestic violence, as defined in RCW 10.99.020, and the defendant suffered a continuing pattern of coercion, control, or abuse by the victim of the offense and the offense is a response to that coercion, control, or abuse.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered by a Jury - Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can

support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of ~~((the))~~ a victim or multiple victims manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property, private metal property, or nonferrous metal property, as defined in RCW 19.290.010.

(aa) The defendant committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or membership.

Sec. 403. RCW 9.94A.525 and 2008 c 231 s 3 are each amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589.

(2)(a) Class A and sex prior felony convictions shall always be included in the offender score.

(b) Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release

from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

(d) Except as provided in (e) of this subsection, serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction.

(e) If the present conviction is felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), prior convictions of felony driving while under the influence of intoxicating liquor or any drug, felony physical control of a vehicle while under the influence of intoxicating liquor or any drug, and serious traffic offenses shall be included in the offender score if: (i) The prior convictions were committed within five years since the last date of release from confinement (including full-time residential treatment) or entry of judgment and sentence; or (ii) the prior convictions would be considered "prior offenses within ten years" as defined in RCW 46.61.5055.

(f) This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one

offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11), (12), or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for operation of a vessel while under the influence of intoxicating liquor or any drug.

(12) If the present conviction is for homicide by watercraft or assault by watercraft count two points for each adult or juvenile prior conviction for homicide by watercraft or assault by watercraft; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for driving under the influence of intoxicating liquor or any drug, actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

(13) If the present conviction is for manufacture of methamphetamine count three points for each adult prior manufacture of methamphetamine conviction and two points for each juvenile manufacture of methamphetamine offense. If the present conviction is for a drug offense and the offender has a criminal history that includes a sex offense or serious violent offense, count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is

violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for failure to register as a sex offender under RCW 9A.44.130(11), count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction, excluding prior convictions for failure to register as a sex offender under RCW 9A.44.130(11), which shall count as one point.

(19) If the present conviction is for an offense committed while the offender was under community custody, add one point. For purposes of this subsection, community custody includes community placement or postrelease supervision, as defined in chapter 9.94B RCW.

(20) If the present conviction is for Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2, count priors as in subsections (7) through (18) of this section; however count one point for prior convictions of Vehicle Prowling 2, and three points for each adult and juvenile prior Theft 1 (of a motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2 conviction.

(21) If the present conviction is for a felony domestic violence offense where domestic violence as defined in RCW 9.94A.030 was plead and proven, count priors as in subsections (7) through (20) of this section; however, count points as follows:

(a) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was plead and proven after August 1, 2011, for the following offenses: A violation of a no contact order that is a felony offense, a violation of a protection order that is a felony offense, a felony domestic violence harassment offense, a felony domestic violence stalking offense, a domestic violence Burglary 1 offense, a domestic violence Kidnapping 1 offense, a domestic violence Kidnapping 2 offense, a domestic violence unlawful imprisonment offense, a domestic violence Robbery 1 offense, a domestic violence Robbery 2 offense, a domestic violence Assault 1 offense, a domestic violence Assault 2 offense, a domestic violence Assault 3 offense, a domestic violence Arson 1 offense, or a domestic violence Arson 2 offense; and

(b) Count one point for each second and subsequent juvenile conviction where domestic violence as defined in RCW 9.94A.030 was plead and proven after August 1, 2011, for the offenses listed in (a) of this subsection.

(c) Count one point for each adult prior conviction for a repetitive domestic violence offense as defined in RCW 9.94A.030, where domestic violence as defined in RCW 9.94A.030, was plead and proven after August 1, 2011.

(22) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. Prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions. Prior convictions that were not included in criminal history or in the offender score shall be included upon any resentencing to ensure imposition of an accurate sentence.

NEW SECTION. Sec. 404. A new section is added to chapter 10.99 RCW to read as follows:

(1) In sentencing for a crime of domestic violence as defined in this chapter, courts of limited jurisdiction shall consider, among other factors, whether:

(a) The defendant suffered a continuing pattern of coercion, control, or abuse by the victim of the offense and the offense is a response to that coercion, control, or abuse;

(b) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of a victim or multiple victims manifested by multiple incidents over a prolonged period of time; and

(c) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years.

(2)(a) In sentencing for a crime of domestic violence as defined in this chapter, the prosecutor shall provide for the court's review:

(i) The defendant's criminal history, if any, that occurred in Washington or any other state;

(ii) If available, the defendant's prior criminal history that occurred in any tribal jurisdiction; and

(iii) The defendant's individual order history.

(b) For the purposes of (a) of this subsection, criminal history includes all previous convictions and orders of deferred prosecution, as reported through the judicial information system or otherwise available to the court or prosecutor, current to within the period specified in (c) of this subsection before the date of sentencing.

(c) The periods applicable to previous convictions and orders of deferred prosecution are:

(i) One working day, in the case of previous actions of courts that fully participate in the state judicial information system; and

(ii) Seven calendar days, in the case of previous actions of courts that do not fully participate in the judicial information system. For the purposes of this subsection, "fully participate" means regularly providing records to and receiving records from the system by electronic means on a daily basis.

Sec. 405. RCW 3.66.068 and 2001 c 94 s 2 are each amended to read as follows:

For a period not to exceed five years after imposition of sentence for a defendant sentenced for a domestic violence offense or under RCW 46.61.5055 and two years after imposition of sentence for all other offenses, the court has continuing jurisdiction and authority to suspend or defer the execution of all or any part of its sentence upon stated terms, including installment payment of fines. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court, shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. However, the jurisdiction period in this section does not apply to the enforcement of orders issued under RCW 46.20.720. For the purposes of this section, "domestic violence offense" means a crime listed in RCW 10.99.020 that is not a felony offense.

Sec. 406. RCW 3.50.330 and 2001 c 94 s 5 are each amended to read as follows:

For a period not to exceed five years after imposition of sentence for a defendant sentenced for a domestic violence offense or under

RCW 46.61.5055 and two years after imposition of sentence for all other offenses, the court shall have continuing jurisdiction and authority to suspend or defer the execution of all or any part of the sentence upon stated terms, including installment payment of fines. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court, shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. However, the jurisdiction period in this section does not apply to the enforcement of orders issued under RCW 46.20.720. Any time before entering an order terminating probation, the court may modify or revoke its order suspending or deferring the imposition or execution of the sentence. For the purposes of this section, "domestic violence offense" means a crime listed in RCW 10.99.020 that is not a felony offense.

Sec. 407. RCW 35.20.255 and 2005 c 400 s 5 are each amended to read as follows:

(1) Judges of the municipal court, in their discretion, shall have the power in all criminal proceedings within their jurisdiction including violations of city ordinances, to defer imposition of any sentence, suspend all or part of any sentence including installment payment of fines, fix the terms of any such deferral or suspension, and provide for such probation as in their opinion is reasonable and necessary under the circumstances of the case, but in no case shall it extend for more than five years from the date of conviction for a defendant to be sentenced for a domestic violence offense or under RCW 46.61.5055 and two years from the date of conviction for all other offenses. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court, shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. However, the jurisdiction period in this section does not apply to the enforcement of orders issued under RCW 46.20.720. Any time before entering an order terminating probation, the court may modify or revoke its order suspending or deferring the imposition or execution of the sentence. For the purposes of this subsection, "domestic violence offense" means a crime listed in RCW 10.99.020 that is not a felony offense.

(2)(a) If a defendant whose sentence has been deferred requests permission to travel or transfer to another state, the director of probation services or a designee thereof shall determine whether such request is subject to RCW 9.94A.745, the interstate compact for adult offender supervision. If such request is subject to the compact, the director or designee shall:

- (i) Notify the department of corrections of the defendant's request;
- (ii) Provide the department of corrections with the supporting documentation it requests for processing an application for transfer;
- (iii) Notify the defendant of the fee due to the department of corrections for processing an application under the compact;
- (iv) Cease supervision of the defendant while another state supervises the defendant pursuant to the compact;
- (v) Resume supervision if the defendant returns to this state before the period of deferral expires.

(b) The defendant shall receive credit for time served while being supervised by another state.

(c) If the probationer is returned to the state at the request of the receiving state under rules of the interstate compact for adult offender supervision, the department of corrections is responsible for the cost of returning the probationer.

(d) The state of Washington, the department of corrections and its employees, and any city and its employees are not liable for civil damages resulting from any act or omission authorized or required under this section unless the act or omission constitutes gross negligence.

PART FIVE TREATMENT/SERVICES FOR PERPETRATORS AND VICTIMS

Sec. 501. RCW 26.50.150 and 1999 c 147 s 1 are each amended to read as follows:

Any program that provides domestic violence treatment to perpetrators of domestic violence must be certified by the department of social and health services and meet minimum standards for domestic violence treatment purposes. The department of social and health services shall adopt rules for standards of approval of domestic violence perpetrator programs (~~(that accept perpetrators of domestic violence into treatment to satisfy court orders or that represent the programs as ones that treat domestic violence perpetrators)~~). The treatment must meet the following minimum qualifications:

(1) All treatment must be based upon a full, complete clinical intake including but not limited to: Current and past violence history; a lethality risk assessment; history of treatment from past domestic violence perpetrator treatment programs; a complete diagnostic evaluation; a substance abuse assessment; criminal history; assessment of cultural issues, learning disabilities, literacy, and special language needs; and a treatment plan that adequately and appropriately addresses the treatment needs of the individual.

(2) To facilitate communication necessary for periodic safety checks and case monitoring, the program must require the perpetrator to sign the following releases:

(a) A release for the program to inform the victim and victim's community and legal advocates that the perpetrator is in treatment with the program, and to provide information, for safety purposes, to the victim and victim's community and legal advocates;

(b) A release to prior and current treatment agencies to provide information on the perpetrator to the program; and

(c) A release for the program to provide information on the perpetrator to relevant legal entities including: Lawyers, courts, parole, probation, child protective services, and child welfare services.

(3) Treatment must be for a minimum treatment period defined by the secretary of the department by rule. The weekly treatment sessions must be in a group unless there is a documented, clinical reason for another modality. Any other therapies, such as individual, marital, or family therapy, substance abuse evaluations or therapy, medication reviews, or psychiatric interviews, may be concomitant with the weekly group treatment sessions described in this section but not a substitute for it.

(4) The treatment must focus primarily on ending the violence, holding the perpetrator accountable for his or her violence, and changing his or her behavior. The treatment must be based on nonvictim-blaming strategies and philosophies and shall include education about the individual, family, and cultural dynamics of domestic violence. If the perpetrator or the victim has a minor child, treatment must specifically include education regarding the effects of domestic violence on children, such as the emotional impacts of domestic violence on children and the long-term consequences that exposure to incidents of domestic violence may have on children.

(5) Satisfactory completion of treatment must be contingent upon the perpetrator meeting specific criteria, defined by rule by the secretary of the department, and not just upon the end of a certain period of time or a certain number of sessions.

(6) The program must have policies and procedures for dealing with reoffenses and noncompliance.

(7) All evaluation and treatment services must be provided by, or under the supervision of, qualified personnel.

(8) The secretary of the department may adopt rules and establish fees as necessary to implement this section.

(9) The department may conduct on-site monitoring visits as part of its plan for certifying domestic violence perpetrator programs and monitoring implementation of the rules adopted by the secretary of the department to determine compliance with the minimum

qualifications for domestic violence perpetrator programs. The applicant or certified domestic violence perpetrator program shall cooperate fully with the department in the monitoring visit and provide all program and management records requested by the department to determine the program's compliance with the minimum certification qualifications and rules adopted by the department.

**PART SIX
MISCELLANEOUS PROVISIONS**

NEW SECTION. Sec. 601. A new section is added to chapter 2.56 RCW to read as follows:

(1)(a) The administrative office of the courts shall, within existing resources, convene a work group to address the issue of transmitting information regarding revocation of concealed pistol licenses, upon the entry of orders issued under chapter 10.99, 26.50, or 26.52 RCW.

(b) The work group must include a superior court judge, a district court judge, a municipal court judge, an attorney whose practice includes a significant amount of time representing defendants in criminal trials, and representatives from the following entities: The Washington state patrol, the Washington association of sheriffs and police chiefs, the prosecuting attorneys association, the department of licensing, and the county clerks. Other members may be added as deemed appropriate by the work group.

(2) The work group shall review the methods currently used to transfer information between the courts, the county clerks, the prosecutors, the department of licensing, the Washington state patrol, and local law enforcement agencies regarding the suspension and revocation of concealed pistol licenses.

(3) The goal of the work group is to identify methods to expedite the transfer of information to enhance the safety of law enforcement and the public.

(4) The work group shall report its recommendations to the affected entities and the legislature not later than December 1, 2010. All agency representatives shall cooperate fully with the work group's efforts.

Sec. 602. RCW 68.50.160 and 2007 c 156 s 24 are each amended to read as follows:

(1) A person has the right to control the disposition of his or her own remains without the predeath or postdeath consent of another person. A valid written document expressing the decedent's wishes regarding the place or method of disposition of his or her remains, signed by the decedent in the presence of a witness, is sufficient legal authorization for the procedures to be accomplished.

(2) Prearrangements that are prepaid, or filed with a licensed funeral establishment or cemetery authority, under RCW 18.39.280 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation or substantial revision by survivors. Absent actual knowledge of contrary legal authorization under this section, a licensed funeral establishment or cemetery authority shall not be held criminally nor civilly liable for acting upon such prearrangements.

(3) If the decedent has not made a prearrangement as set forth in subsection (2) of this section or the costs of executing the decedent's wishes regarding the disposition of the decedent's remains exceeds a reasonable amount or directions have not been given by the decedent, the right to control the disposition of the remains of a deceased person vests in, and the duty of disposition and the liability for the reasonable cost of preparation, care, and disposition of such remains devolves upon the following in the order named:

- (a) The surviving spouse or state registered domestic partner.
- (b) The surviving adult children of the decedent.
- (c) The surviving parents of the decedent.
- (d) The surviving siblings of the decedent.

(e) A person acting as a representative of the decedent under the signed authorization of the decedent.

(4) If any person to whom the right of control has vested pursuant to subsection (3) of this section has been arrested or charged with first or second degree murder or first degree manslaughter in connection

with the decedent's death, the right of control is relinquished and passed on in accordance with subsection (3) of this section.

(5) If a cemetery authority as defined in RCW 68.04.190 or a funeral establishment licensed under chapter 18.39 RCW has made a good faith effort to locate the person cited in subsection (3)(a) through (e) of this section or the legal representative of the decedent's estate, the cemetery authority or funeral establishment shall have the right to rely on an authority to bury or cremate the human remains, executed by the most responsible party available, and the cemetery authority or funeral establishment may not be held criminally or civilly liable for burying or cremating the human remains. In the event any government agency provides the funds for the disposition of any human remains and the government agency elects to provide funds for cremation only, the cemetery authority or funeral establishment may not be held criminally or civilly liable for cremating the human remains.

~~((5))~~ (6) The liability for the reasonable cost of preparation, care, and disposition devolves jointly and severally upon all kin of the decedent in the same degree of kindred, in the order listed in subsection (3) of this section, and upon the estate of the decedent."

On page 1, line 1 of the title, after "provisions;" strike the remainder of the title and insert "amending RCW 10.31.100, 10.99.045, 26.50.020, 26.50.060, 26.50.070, 10.99.040, 9.94A.030, 9.94A.525, 3.66.068, 3.50.330, 35.20.255, 26.50.150, and 68.50.160; reenacting and amending RCW 9.94A.535; adding a new section to chapter 36.28A RCW; adding new sections to chapter 26.50 RCW; adding a new section to chapter 7.90 RCW; adding a new section to chapter 10.14 RCW; adding new sections to chapter 2.56 RCW; adding a new section to chapter 10.99 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2777 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representatives Goodman and Pearson 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. 2777, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2777, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Dammeier, Darneille, DeBolt, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Lias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt,

Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Dickerson, Hope and Hurst.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2777, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2841 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 48.43.018 and 2009 c 42 s 1 are each amended to read as follows:

(1) Except as provided in (a) through (g) of this subsection, a health carrier may require any person applying for an individual health benefit plan and the health care authority shall require any person applying for nonsubsidized enrollment in the basic health plan to complete the standard health questionnaire designated under chapter 48.41 RCW.

(a) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her change of residence from one geographic area in Washington state to another geographic area in Washington state where his or her current health plan is not offered, completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of relocation.

(b) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee:

(i) Because a health care provider with whom he or she has an established care relationship and from whom he or she has received treatment within the past twelve months is no longer part of the carrier's provider network under his or her existing Washington individual health benefit plan; and

(ii) His or her health care provider is part of another carrier's or a basic health plan managed care system's provider network; and

(iii) Application for a health benefit plan under that carrier's provider network individual coverage or for basic health plan nonsubsidized enrollment is made within ninety days of his or her provider leaving the previous carrier's provider network; then completion of the standard health questionnaire shall not be a condition of coverage.

(c) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her having exhausted continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of exhaustion of continuation coverage. A health carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall accept an application without a standard health questionnaire from a person currently covered by such continuation coverage if application is made within ninety days prior to the date the continuation coverage would be exhausted and the effective date of the individual coverage applied for is the date the continuation coverage would be exhausted, or within ninety days thereafter.

(d) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to

a change in employment status that would qualify him or her to purchase continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., but the person's employer is exempt under federal law from the requirement to offer such coverage, completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the qualifying event. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of a qualifying event and the effective date of the individual coverage applied for is the date of the qualifying event, or within ninety days thereafter.

(e) If a person is seeking an individual health benefit plan, completion of the standard health questionnaire shall not be a condition of coverage if: (i) The person had at least twenty-four months of continuous basic health plan coverage under chapter 70.47 RCW immediately prior to disenrollment; and (ii) application for coverage is made within ninety days of disenrollment from the basic health plan. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous basic health plan coverage if application is made no more than ninety days prior to the date of disenrollment and the effective date of the individual coverage applied for is the date of disenrollment, or within ninety days thereafter.

(f) If a person is seeking an individual health benefit plan due to a change in employment status that would qualify him or her to purchase continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire is not a condition of coverage if: (i) Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the qualifying event. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of a qualifying event and the effective date of the individual coverage applied for is the date of the qualifying event, or within ninety days thereafter.

(g) If a person is seeking an individual health benefit plan due to their terminating continuation coverage under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of terminating the continuation coverage; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the termination. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of termination of the continuation coverage and the effective date of the individual coverage applied for is the date the continuation coverage is terminated, or within ninety days thereafter.

(h) If a person is seeking an individual health benefit plan because his or her employer, or former employer, discontinues group coverage due to the closure of the business, completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of the employer discontinuing group coverage due to closure of the business; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the termination. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of discontinuation of group coverage, and the effective date of the

individual coverage applied for is the date the group coverage is discontinued, or within ninety days thereafter.

(2) If, based upon the results of the standard health questionnaire, the person qualifies for coverage under the Washington state health insurance pool, the following shall apply:

(a) The carrier may decide not to accept the person's application for enrollment in its individual health benefit plan and the health care authority, as administrator of basic health plan nonsubsidized coverage, shall not accept the person's application for enrollment as a nonsubsidized enrollee; and

(b) Within fifteen business days of receipt of a completed application, the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall provide written notice of the decision not to accept the person's application for enrollment to both the person and the administrator of the Washington state health insurance pool. The notice to the person shall state that the person is eligible for health insurance provided by the Washington state health insurance pool, and shall include information about the Washington state health insurance pool and an application for such coverage. If the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage does not provide or postmark such notice within fifteen business days, the application is deemed approved.

(3) If the person applying for an individual health benefit plan: (a) Does not qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire; (b) does qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire and the carrier elects to accept the person for enrollment; or (c) is not required to complete the standard health questionnaire designated under this chapter under subsection (1)(a) or (b) of this section, the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage, whichever entity administered the standard health questionnaire, shall accept the person for enrollment if he or she resides within the carrier's or the basic health plan's service area and provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The commissioner may grant a temporary exemption from this subsection if, upon application by a health carrier, the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired if a health carrier is required to continue enrollment of additional eligible individuals."

On page 1, line 1 of the title, after "questionnaire;" strike the remainder of the title and insert "and amending RCW 48.43.018."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2841 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Cody and Hinkle 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. 2841, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2841, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Representatives Dickerson, Hope and Hurst.

SUBSTITUTE HOUSE BILL NO. 2841, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2986 with the following amendments:

On page 2, line 29, after "years." insert "The nonvoting member shall comply with all governing bylaws and policies of the commission."

On page 3, line 22, after "authority." insert "The nonvoting member shall comply with all governing bylaws and policies of the authority."

On page 4, line 32, after "system." insert "The nonvoting member shall comply with all governing bylaws and policies of the authority."

On page 2, line 27, after "representing" strike all material through "of"

On page 2, line 28, after "system." insert "If the public transportation employees are represented by more than one labor organization, all such labor organizations shall select the nonvoting member by majority vote."

On page 3, line 20, after "representing" strike all material through "of"

On page 3, beginning on line 21, after "authority." strike all material through "authority." on line 22 and insert "If the public transportation employees are represented by more than one labor organization, all such labor organizations shall select the nonvoting member by majority vote."

On page 4, line 31, after "representing" strike all material through "of"

On page 4, line 32, after "system." insert "If the public transportation employees are represented by more than one labor organization, all such labor organizations shall select the nonvoting member by majority vote."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2986 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Simpson and Angel 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. 2986, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2986, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 63; Nays, 32; Absent, 0; Excused, 3.

Voting yea: Representatives Angel, Appleton, Blake, Campbell, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Driscoll, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, 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, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

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

Excused: Representatives Dickerson, Hope and Hurst.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2986, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3141 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 74.08A RCW to read as follows:

(1) The legislature finds that the goal of the Washington WorkFirst program is economic self-sufficiency for families through unsubsidized work. The legislature also finds that matching available resources with families' needs and developing a comprehensive plan assists families in attaining lasting self-sufficiency through work.

(2) The legislature also finds that the primary purposes of the temporary assistance for needy families program are: (a) To help job ready participants secure gainful employment; (b) to assist parents to prepare for and obtain sustainable employment that will lift the family out of poverty and lead to economic self-sufficiency; and (c) to provide basic income assistance and support to parents who are disabled or otherwise exempt from work activity requirements under federal law.

(3) The legislature further finds that parents who have adequate job skills and experiences should be referred to job search activities that will lead to employment.

(4) The legislature also finds that completion of appropriate educational and training programs is necessary for some families to achieve economic self-sufficiency through work because research demonstrates that without adequate levels of education or training, job search activities alone have no measurable impact on a family's ability to obtain and maintain paid work.

(5) The legislature further finds that while many families have been successful in permanently leaving the program of temporary assistance for needy families, statistics indicate that families continue to return to the program in the absence of adequate education and training.

(6) In order to provide work opportunities for parents with significant barriers to employment, the legislature intends to build upon the successes of the community jobs program and to provide subsidized work opportunities to parents who are unable to find employment after earnest efforts at job search or education and training activities.

(7) The legislature intends to reform components of Washington's subsidized childcare program by redesigning the eligibility determination process to promote: (a) Stability for children and (b) predictability for parents who are either working or preparing and searching for work and the childcare providers who are serving low-income families.

NEW SECTION. Sec. 2. A new section is added to chapter 43.215 RCW to read as follows:

(1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures defined in RCW 74.08A.410 and the standards established in this section intended to promote continuity of care for children.

(2) Beginning in fiscal year 2011, for families with children enrolled in an early childhood education and assistance program, a head start program, or an early head start program, authorizations for the working connections child care subsidy shall be effective for twelve months unless a change in circumstances necessitates reauthorization sooner than twelve months.

(3) The department, in consultation with the department of social and health services, shall report to the legislature by September 1, 2011, with:

(a) An analysis of the impact of the twelve-month authorization period on the stability of child care, program costs, and administrative savings; and

(b) Recommendations for expanding the application of the twelve-month authorization period to additional populations of children in care.

NEW SECTION. Sec. 3. A new section is added to chapter 74.08A RCW to read as follows:

The Washington WorkFirst subcabinet, in consultation with the governor, shall:

(1) Reevaluate the structure and policies of the WorkFirst program in the context of legislative intent expressed in section 1 of this act, and in consideration of the relevant research relating to family economic self-sufficiency and the completion of training and

education programs shown to be correlated with increased earnings and career growth;

(2) Develop a proposal for redesigning the state's use of temporary assistance for needy families funds in a manner that makes optimum use of all funds available in the state to promote more families moving out of poverty to sustainable self-sufficiency. The subcommittee must report the proposal to the appropriate committees of the legislature by December 1, 2010. The proposal must include the following elements:

(a) A process for conducting a reassessment for persons who have been unable to achieve sustainable self-sufficiency through employment after receiving WorkFirst assistance for fifty-four months. The reassessment must be designed to determine if referral to community jobs or other services, including education and training opportunities, is appropriate or necessary to assist the person in attaining self-sufficiency for the family;

(b) A plan for referring persons who have been unsuccessful in finding sustainable employment to the community jobs program or other wage-subsidized employment program established under RCW 74.08A.320. Referrals should complement other activities that might be identified in a reassessment under (a) of this subsection; and

(c) A schedule for the development and implementation of three pathways to family self-sufficiency that will guide case management and engage parents early in developing a comprehensive plan to achieve self-sufficiency while addressing families' current basic needs. The pathways must address appropriate referrals for:

(i) Persons who have: (A) Marketable job skills, adequate education, or experience and attachment to the job force, (B) transportation, (C) safe child care arrangements in place, and (D) no unaddressed barriers to employment;

(ii) Persons who have: (A) Few or no marketable job skills, (B) little experience or attachment to the job force, (C) no high school diploma or equivalent, or (D) a need to complete adult basic education or other activities to remove barriers to employment; and

(iii) Persons who are: (A) Incapacitated and unemployable, (B) caring for a child with a disability, or (C) the primary caregiver for a family member with a disability; and

(3)(a) Adopt the goal of increasing the percentage of households receiving temporary assistance for needy families that move into the middle-income bracket or higher, and delineate specific program strategies within the proposal required in subsection (2) of this section to reach that goal.

(b) The proposal developed under subsection (2) of this section shall also include an estimate by the office of financial management, in consultation with other state agencies, of the percentage of Washington residents with incomes in the middle-income bracket or higher, and the percentage of WorkFirst clients who have historically moved into the middle-income bracket or higher. The office of financial management shall continue, by December 1 of every year thereafter, to estimate and report the percentage of Washington residents with incomes in the middle-income bracket or higher to the governor and the appropriate committees of the legislature.

(c) For purposes of this section, "middle-income bracket" means family incomes between two hundred and five hundred percent of the 2009 federal poverty level, as determined by the United States department of health and human services for a family of four, adjusted annually for inflation.

Sec. 4. RCW 74.08A.285 and 2003 c 383 s 3 are each amended to read as follows:

The WorkFirst program operated by the department to meet the federal work requirements specified in P.L. 104-193 shall contain a job search component. The component shall consist of instruction on how to secure a job and assisted job search activities to locate and retain employment. Nonexempt recipients of temporary assistance for needy families shall participate in an initial job search for no more than twelve consecutive weeks, when appropriate, given the

recipient's marketable job skills, attachment to the labor force, and level of education or training. Each recipient shall receive a work skills assessment upon referral to the job search program. The work skills assessment shall include but not be limited to education, employment history, employment strengths, and job skills. The recipient's ability to obtain employment will be reviewed periodically thereafter and, if it is clear at any time that further participation in a job search will not be productive, the department shall assess the recipient pursuant to RCW 74.08A.260. The department shall refer recipients unable to find employment through the initial job search period to ~~((work))~~ activities that will develop their skills or knowledge to make them more employable, including additional job search and job readiness assistance.

Sec. 5. RCW 74.08A.320 and 1997 c 58 s 325 are each amended to read as follows:

The department shall establish a wage subsidy program to be known as the community jobs program for recipients of temporary assistance for needy families who have barriers to employment, lack experience and attachment to the job force, or have been unsuccessful in securing employment leading to family self-sufficiency. The department shall give preference in job placements to private sector employers that have agreed to participate in the wage subsidy program. The department shall identify characteristics of employers who can meet the employment goals stated in RCW 74.08A.410. The department shall use these characteristics in identifying which employers may participate in the program. The department shall adopt rules for the participation of recipients of temporary assistance for needy families in the wage subsidy program. Participants in the program established under this section may not be employed if: (1) The employer has terminated the employment of any current employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with the participant; or (2) the participant displaces or partially displaces current employees. Employers providing positions created under this section shall meet the requirements of chapter 49.46 RCW. This section shall not diminish or result in the infringement of obligations or rights under chapters 41.06, 41.56, and 49.36 RCW and the national labor relations act, 29 U.S.C. Ch. 7. The department shall establish such local and statewide advisory boards, including business and labor representatives, as it deems appropriate to assist in the implementation of the wage subsidy program. Once the recipient is hired, the wage subsidy shall be authorized for up to nine months.

NEW SECTION. **Sec. 6.** RCW 74.08A.200 (Intent--Washington WorkFirst) and 1997 c 58 s 301 are each repealed.

NEW SECTION. **Sec. 7.** It is the intent of the legislature that this act be implemented within the funding appropriated in the 2009-11 biennial budget. No additional appropriations will be provided for its implementation."

On page 1, line 2 of the title, after "families;" strike the remainder of the title and insert "amending RCW 74.08A.285 and 74.08A.320; adding new sections to chapter 74.08A RCW; adding a new section to chapter 43.215 RCW; creating a new section; and repealing RCW 74.08A.200."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3141 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Thomas Hoemann, Secretary

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

Representative Dammeier 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 House Bill No. 3141, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 3141, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 57; Nays, 38; Absent, 0; Excused, 3.

Voting yea: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Driscoll, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloschia, Moeller, Morrell, Morris, Nelson, Ormsby, Orwall, Pedersen, Pettigrew, 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, Campbell, Chandler, Condotta, Crouse, Dammeier, DeBolt, Ericksen, Fagan, Haler, Herrera, Hinkle, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Nealey, O'Brien, Orcutt, Parker, Pearson, Priest, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh and Warnick.

Excused: Representatives Dickerson, Hope and Hurst.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3141, 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

March 4, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2416 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 19.260 RCW to read as follows:

The department shall monitor television energy efficiency standards proposed in California and Oregon. After either state adopts proposed standards and the department determines that uniform standards among west coast states would promote consistency and provide market influence in achieving greater energy efficiency, the department shall, by December 1st of the year in which it makes the determination, provide recommendations regarding adoption of television energy efficiency standards to the appropriate committees of the legislature."

On page 1, line 1 of the title, after "products;" strike the remainder of the title and insert "and adding a new section to chapter 19.260 RCW."

and the same is herewith transmitted.

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2416 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2527 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 80.50.020 and 2007 c 325 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) "Applicant" means any person who makes application for a site certification pursuant to the provisions of this chapter.

(2) "Application" means any request for approval of a particular site or sites filed in accordance with the procedures established pursuant to this chapter, unless the context otherwise requires.

(3) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

(4) "Site" means any proposed or approved location of an energy facility, alternative energy resource, or electrical transmission facility.

(5) "Certification" means a binding agreement between an applicant and the state which shall embody compliance to the siting guidelines, in effect as of the date of certification, which have been adopted pursuant to RCW 80.50.040 as now or hereafter amended as conditions to be met prior to or concurrent with the construction or operation of any energy facility.

(6) "Associated facilities" means storage, transmission, handling, or other related and supporting facilities connecting an energy plant with the existing energy supply, processing, or distribution system, including, but not limited to, communications, controls, mobilizing or maintenance equipment, instrumentation, and other types of ancillary transmission equipment, off-line storage or venting required for efficient operation or safety of the transmission system and overhead, and surface or subsurface lines of physical access for the inspection, maintenance, and safe operations of the transmission facility and new transmission lines constructed to operate at nominal voltages of at least 115,000 volts to connect a thermal power plant or alternative energy facilities to the northwest power grid. However, common carrier railroads or motor vehicles shall not be included.

(7) "Transmission facility" means any of the following together with their associated facilities:

(a) Crude or refined petroleum or liquid petroleum product transmission pipeline of the following dimensions: A pipeline larger than six inches minimum inside diameter between valves for the transmission of these products with a total length of at least fifteen miles;

(b) Natural gas, synthetic fuel gas, or liquefied petroleum gas transmission pipeline of the following dimensions: A pipeline larger than fourteen inches minimum inside diameter between valves, for the transmission of these products, with a total length of at least fifteen miles for the purpose of delivering gas to a distribution facility,

except an interstate natural gas pipeline regulated by the United States federal power commission.

(8) "Electrical transmission facilities" means electrical power lines and related equipment.

(9) "Independent consultants" means those persons who have no financial interest in the applicant's proposals and who are retained by the council to evaluate the applicant's proposals, supporting studies, or to conduct additional studies.

(10) "Thermal power plant" means, for the purpose of certification, any electrical generating facility using any fuel (~~(including nuclear materials,))~~) for distribution of electricity by electric utilities.

(11) "Energy facility" means an energy plant or transmission facilities: PROVIDED, That the following are excluded from the provisions of this chapter:

(a) Facilities for the extraction, conversion, transmission or storage of water, other than water specifically consumed or discharged by energy production or conversion for energy purposes; and

(b) Facilities operated by and for the armed services for military purposes or by other federal authority for the national defense.

(12) "Council" means the energy facility site evaluation council created by RCW 80.50.030.

(13) "Counsel for the environment" means an assistant attorney general or a special assistant attorney general who shall represent the public in accordance with RCW 80.50.080.

(14) "Construction" means on-site improvements, excluding exploratory work, which cost in excess of two hundred fifty thousand dollars.

(15) "Energy plant" means the following facilities together with their associated facilities:

(a) Any nuclear power facility where the primary purpose is to produce and sell electricity;

~~(b) Any nonnuclear stationary thermal power plant with generating capacity of three hundred fifty thousand kilowatts or more, measured using maximum continuous electric generating capacity, less minimum auxiliary load, at average ambient temperature and pressure, and floating thermal power plants of one hundred thousand kilowatts or more (including associated facilities. For the purposes of this subsection, "floating thermal power plants" means a thermal power plant that is)~~ suspended on the surface of water by means of a barge, vessel, or other floating platform;

~~((b))~~ (c) Facilities which will have the capacity to receive liquefied natural gas in the equivalent of more than one hundred million standard cubic feet of natural gas per day, which has been transported over marine waters;

~~((e))~~ (d) Facilities which will have the capacity to receive more than an average of fifty thousand barrels per day of crude or refined petroleum or liquefied petroleum gas which has been or will be transported over marine waters, except that the provisions of this chapter shall not apply to storage facilities unless occasioned by such new facility construction;

~~((d))~~ (e) Any underground reservoir for receipt and storage of natural gas as defined in RCW 80.40.010 capable of delivering an average of more than one hundred million standard cubic feet of natural gas per day; and

~~((e))~~ (f) Facilities capable of processing more than twenty-five thousand barrels per day of petroleum or biofuel into refined products except where such biofuel production is undertaken at existing industrial facilities.

(16) "Land use plan" means a comprehensive plan or land use element thereof adopted by a unit of local government pursuant to chapter 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise designated by chapter 325, Laws of 2007.

(17) "Zoning ordinance" means an ordinance of a unit of local government regulating the use of land and adopted pursuant to

chapter 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state Constitution, or as otherwise designated by chapter 325, Laws of 2007.

(18) "Alternative energy resource" (~~means~~) includes energy facilities of the following types: (a) Wind; (b) solar energy; (c) geothermal energy; (d) landfill gas; (e) wave or tidal action; or (f) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(19) "Secretary" means the secretary of the United States department of energy.

(20) "Preapplication process" means the process which is initiated by written correspondence from the preapplicant to the council, and includes the process adopted by the council for consulting with the preapplicant and with cities, towns, and counties prior to accepting applications for all transmission facilities.

(21) "Preapplicant" means a person considering applying for a site certificate agreement for any transmission facility.

(22) "Biofuel" has the same meaning as defined in RCW 43.325.010.

Sec. 2. RCW 80.50.030 and 2001 c 214 s 4 are each amended to read as follows:

(1) There is created and established the energy facility site evaluation council.

(2)(a) The chair of the council shall be appointed by the governor with the advice and consent of the senate, shall have a vote on matters before the council, shall serve for a term coextensive with the term of the governor, and is removable for cause. The chair may designate a member of the council to serve as acting chair in the event of the chair's absence. The salary of the chair shall be determined under RCW 43.03.040. The chair is a "state employee" for the purposes of chapter 42.52 RCW. As applicable, when attending meetings of the council, members may receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060, and are eligible for compensation under RCW 43.03.250.

(b) The chair or a designee shall execute all official documents, contracts, and other materials on behalf of the council. The Washington state department of community, trade, and economic development shall provide all administrative and staff support for the council. The director of the department of community, trade, and economic development has supervisory authority over the staff of the council and shall employ such personnel as are necessary to implement this chapter. Not more than three such employees may be exempt from chapter 41.06 RCW.

(3)(a) The council shall consist of the directors, administrators, or their designees, of the following departments, agencies, commissions, and committees or their statutory successors:

(i) Department of ecology;

(ii) Department of fish and wildlife;

(iii) Department of community, trade, and economic development;

(iv) Utilities and transportation commission; and

(v) Department of natural resources.

(b) The directors, administrators, or their designees, of the following departments, agencies, and commissions, or their statutory successors, may participate as councilmembers at their own discretion provided they elect to participate no later than sixty days after an application is filed:

(i) Department of agriculture;

(ii) Department of health;

(iii) Military department; and

(iv) Department of transportation.

(c) Council membership is discretionary for agencies that choose to participate under (b) of this subsection only for applications that are filed with the council on or after May 8, 2001. For applications filed

before May 8, 2001, council membership is mandatory for those agencies listed in (b) of this subsection.

(4) The appropriate county legislative authority of every county wherein an application for a proposed site is filed shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the county which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(5) The city legislative authority of every city within whose corporate limits an energy (~~plant~~) facility is proposed to be located shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the city which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(6) For any port district wherein an application for a proposed port facility is filed subject to this chapter, the port district shall appoint a member or designee as a nonvoting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the port district which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site. The provisions of this subsection shall not apply if the port district is the applicant, either singly or in partnership or association with any other person.

Sec. 3. RCW 80.50.071 and 2006 c 196 s 5 are each amended to read as follows:

(1) The council shall receive all applications for energy facility site certification. ~~((The following fees or charges for application processing or certification monitoring shall be paid by the applicant or certificate holder:))~~ Each applicant shall pay such reasonable costs as are actually and necessarily incurred by the council in processing an application.

(a) ~~((A fee of twenty five thousand dollars for each proposed site, to be applied toward the cost of the independent consultant study authorized in this subsection, shall accompany the application and shall be a condition precedent to any further consideration or action on the application by the council))~~ Each applicant shall, at the time of application submission, deposit fifty thousand dollars, or such greater amount as may be specified by the council after consultation with the applicant. Costs that may be charged against the deposit include, but are not limited to, independent consultants' costs, councilmember's wages, employee benefits, costs of a hearing examiner, costs of a court reporter, staff salaries, wages and employee benefits, goods and services, travel expenses, and miscellaneous direct expenses as arise directly from processing an application.

~~((The council shall commission its own independent consultant study to measure the consequences of the proposed energy facility on the environment for each site application. The council shall direct the consultant to study any matter which it deems essential to an adequate appraisal of the site. The full cost of the study shall be paid by the applicant. PROVIDED, That said costs exceeding a total of the twenty five thousand dollars paid pursuant to subsection (1)(a) of this section shall be payable subject to the applicant giving prior approval to such excess amount:))~~

(b) ~~((Each applicant shall, in addition to the costs of the independent consultant provided by subsection (1)(a) of this section, pay such reasonable costs as are actually and necessarily incurred by the council and its members as designated in RCW 80.50.030 in processing the application. Such costs shall include, but are not limited to, council member's wages, employee benefits, costs of a hearing examiner, a court reporter, additional staff salaries, wages and employee benefits, goods and services, travel expenses within the state and miscellaneous expenses, as arise directly from processing~~

~~such application))~~ The council may commission its own independent consultant study to measure the consequences of the proposed energy facility on the environment or any matter that it deems essential to an adequate appraisal of the site. The council shall provide an estimate of the cost of the study to the applicant and consider applicant comments.

~~((Each applicant shall, at the time of application submission, deposit twenty thousand dollars, or such lesser amount as may be specified by council rule, to cover costs provided for by subsection (1)(b) of this section. Reasonable and necessary costs of the council directly attributable to application processing shall be charged against such deposit.))~~

(c) The council shall submit to each applicant a statement of such expenditures (~~actually~~) made during the preceding calendar quarter which shall be in sufficient detail to explain such expenditures. The applicant shall pay the state treasurer the amount of such statement to restore the total amount on deposit to the originally established level: PROVIDED, That such applicant may, at the request of the council, increase the amount of funds on deposit to cover anticipated expenses during peak periods of application processing. Any funds remaining unexpended at the conclusion of application processing shall be refunded to the applicant, or at the applicant's option, credited against required deposits of certificate holders.

~~((e))~~ (2) Each certificate holder shall pay such reasonable costs as are actually and necessarily incurred by the council for inspection and determination of compliance by the certificate holder with the terms of the certification relative to monitoring the effects of construction (~~and~~), operation, and site restoration of the facility.

(a) Each certificate holder, within thirty days of execution of the site certification agreement, shall have on deposit ((twenty)) fifty thousand dollars, or such ((other)) greater amount as may be specified by the council ((rule, to cover costs provided for by subsection (1)(e) of this section)) after consultation with the certificate holder. ~~((Reasonable and necessary costs of the council directly attributable to))~~ Costs that may be charged against the deposit include, but are not limited to, those specified in subsection (1)(a) of this section as arise from inspection and determination of compliance by the certificate holder with the terms of the certification ((relative to monitoring the effects of construction and operation of the facility shall be charged against such deposit)).

(b) The council shall submit to each certificate holder a statement of such expenditures actually made during the preceding calendar quarter which shall be in sufficient detail to explain such expenditures. The certificate holder shall pay the state treasurer the amount of such statement to restore the total amount on deposit to the originally established level: PROVIDED, That if the actual(~~reasonable, and necessary~~) expenditures for inspection and determination of compliance in the preceding calendar quarter have exceeded the amount of funds on deposit, such excess costs shall be paid by the certificate holder.

~~((2))~~ (3) If an applicant or certificate holder fails to provide the initial deposit, or if subsequently required payments are not received within thirty days following receipt of the statement from the council, the council may (a) in the case of the applicant, suspend processing of the application until payment is received; or (b) in the case of a certificate holder, suspend the certification.

~~((3))~~ (4) All payments required of the applicant or certificate holder under this section are to be made to the state treasurer who shall make payments as instructed by the council from the funds submitted. All such funds shall be subject to state auditing procedures. Any unexpended portions thereof shall be returned to the applicant or certificate holder.

NEW SECTION. Sec. 4. Rule-making costs incurred by the energy facility site evaluation council in implementing and administering this act shall be proportionately divided among the certificate holders and applicants directly affected by this act."

On page 1, line 1 of the title, after "council;" strike the remainder of the title and insert "amending RCW 80.50.020, 80.50.030, and 80.50.071; and creating a new section."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2527 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2527, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2527, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Representatives Dickerson, Hope and Hurst.

SUBSTITUTE HOUSE BILL NO. 2527, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

The Speaker (Representative Moeller presiding) called upon Representative Morris to preside.

MESSAGE FROM THE SENATE

March 4, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 3124 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 46.61 RCW to read as follows:

A law enforcement officer shall promptly notify child protective services whenever a child is present in a vehicle being driven by his or her parent, guardian, or legal custodian and that

person is being arrested for a drug or alcohol-related driving offense. This section does not require law enforcement to take custody of the child unless there is no other responsible person, or an agency having the right to physical custody of the child that can be contacted, or the officer has reasonable grounds to believe the child should be taken into custody pursuant to RCW 13.34.050 or 26.44.050. For purposes of this section, "child" means any person under ten years of age.

NEW SECTION. Sec. 2. A new section is added to chapter 26.44 RCW to read as follows:

A law enforcement officer shall promptly notify child protective services whenever a child is present in a vehicle being driven by his or her parent, guardian, or legal custodian and that person is being arrested for a drug or alcohol-related driving offense. This section does not require law enforcement to take custody of the child unless there is no other responsible person, or an agency having the right to physical custody of the child that can be contacted, or the officer has reasonable grounds to believe the child should be taken into custody pursuant to RCW 13.34.050 or 26.44.050. For purposes of this section, "child" means any person under ten years of age."

On page 1, line 4 of the title, after "drugs;" strike the remainder of the title and insert "adding a new section to chapter 46.61 RCW; and adding a new section to chapter 26.44 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 3124 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1679 with the following amendment:

On page 5, on line 17, after "(medical insurance)," insert "A member who is entitled to medicare must enroll and maintain enrollment in both medicare part A and medicare part B in order to remain eligible for the reimbursement provided in this subsection."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1679 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Simpson 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. 1679, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1679, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Representatives Dickerson, Hope and Hurst.

SUBSTITUTE HOUSE BILL NO. 1679, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2533 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 71.05 RCW to read as follows:

(1) A civil commitment may be initiated under the procedures described in RCW 71.05.150 or 71.05.153 for a person who has been found not guilty by reason of insanity in a state other than Washington and who has fled from detention, commitment, or conditional release in that state, on the basis of a request by the state in which the person was found not guilty by reason of insanity for the person to be detained and transferred back to the custody or care of the requesting state. A finding of likelihood of serious harm or grave disability is not required for a commitment under this section. The detention may occur at either an evaluation and treatment facility or a state hospital. The petition for seventy-two hour detention filed by the designated mental health professional must be accompanied by the following documents:

(a) A copy of an order for detention, commitment, or conditional release of the person in a state other than Washington on the basis of a judgment of not guilty by reason of insanity;

(b) A warrant issued by a magistrate in the state in which the person was found not guilty by reason of insanity indicating that the person has fled from detention, commitment, or conditional release in that state and authorizing the detention of the person within the state in which the person was found not guilty by reason of insanity;

(c) A statement from the executive authority of the state in which the person was found not guilty by reason of insanity requesting that the person be returned to the requesting state and agreeing to facilitate the transfer of the person to the requesting state.

(2) The person shall be entitled to a probable cause hearing within the time limits applicable to other detentions under this chapter and shall be afforded the rights described in this chapter including the

right to counsel. At the probable cause hearing, the court shall determine the identity of the person and whether the other requirements of this section are met. If the court so finds, the court may order continued detention in a treatment facility for up to thirty days for the purpose of the transfer of the person to the custody or care of the requesting state. The court may order a less restrictive alternative to detention only under conditions which ensure the person's safe transfer to the custody or care of the requesting state within thirty days without undue risk to the safety of the person or others.

(3) For the purposes of this section, "not guilty by reason of insanity" shall be construed to include any provision of law which is generally equivalent to a finding of criminal insanity within the state of Washington; and "state" shall be construed to mean any state, district, or territory of the United States."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "the detention and interstate transfer of persons found not guilty by reason of insanity; and adding a new section to chapter 71.05 RCW."

and the same is herewith transmitted.

Brad Hendrickson, Deputy, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2533 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representatives Pearson and Orwall spoke in favor of 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 Substitute House Bill No. 2533, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2533, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Representatives Dickerson, Flannigan, Hope and Hurst.

SUBSTITUTE HOUSE BILL NO. 2533, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2603 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 34.05.110 and 2009 c 358 s 1 are each amended to read as follows:

(1) Agencies must provide to a small business a copy of the state law or agency rule that a small business is violating and a period of at least two business days to correct the violation before the agency may impose any fines, civil penalties, or administrative sanctions for a violation of a state law or agency rule by a small business. If no correction is possible or if an agency is acting in response to a complaint made by a third party and the third party would be disadvantaged by the application of this subsection, the requirements in this subsection do not apply.

(2) Except as provided in subsection ~~((3))~~ (4) of this section, agencies shall waive any fines, civil penalties, or administrative sanctions for first-time paperwork violations by a small business.

~~((2))~~ (3) When an agency waives a fine, penalty, or sanction under this section, when possible it shall require the small business to correct the violation within a reasonable period of time, in a manner specified by the agency. If correction is impossible, no correction may be required and failure to correct is not grounds for reinstatement of fines, penalties, or sanctions under subsection ~~((4))~~ (5)(b) of this section.

~~((3))~~ (4) Exceptions to requirements of subsection (1) of this section and the waiver requirement in subsection (2) of this section may be made for any of the following reasons:

(a) The agency head determines that the effect of the violation or waiver presents a direct danger to the public health, results in a loss of income or benefits to an employee, poses a potentially significant threat to human health or the environment, or causes serious harm to the public interest;

(b) The violation involves a ~~((small business knowingly or willfully engaging in conduct that may result in a felony conviction))~~ knowing or willful violation;

(c) The violation is of a requirement concerning the assessment, collection, or administration of any tax, tax program, debt, revenue, receipt, a regulated entity's financial filings, or insurance rate or form filing;

(d) The ~~((waiver is))~~ requirements of this section are in conflict with federal law or program requirements, federal requirements that are a prescribed condition to the allocation of federal funds to the state, or the requirements for eligibility of employers in this state for federal unemployment tax credits, as determined by the agency head;

(e) The small business committing the violation previously violated a substantially similar ~~((paperwork))~~ requirement; or

(f) The owner or operator of the small business committing the violation owns or operates, or owned or operated a different small business which previously violated a substantially similar ~~((paperwork))~~ requirement.

~~((4))~~ (5)(a) Nothing in this section prohibits an agency from waiving fines, civil penalties, or administrative sanctions incurred by a small business for a paperwork violation that is not a first-time offense.

(b) Any fine, civil penalty, or administrative sanction that is waived under this section may be reinstated and imposed in addition to any additional fines, penalties, or administrative sanctions associated with a subsequent violation for noncompliance with a substantially similar paperwork requirement, or failure to correct the previous violation as required by the agency under subsection ~~((2))~~ (3) of this section.

~~((5))~~ (6) Nothing in this section may be construed to diminish the responsibility for any citizen or business to apply for and obtain a permit, license, or authorizing document that is required to engage in a regulated activity, or otherwise comply with state or federal law.

~~((6))~~ (7) Nothing in this section shall be construed to apply to small businesses required to provide accurate and complete information and documentation in relation to any claim for payment of state or federal funds or who are licensed or certified to provide care and services to vulnerable adults or children.

~~((7))~~ (8) Nothing in this section affects the attorney general's authority to impose fines, civil penalties, or administrative sanctions as otherwise authorized by law; nor shall this section affect the attorney general's authority to enforce the consumer protection act, chapter 19.86 RCW.

(9) As used in this section:

(a) "Small business" means a business with two hundred fifty or fewer employees or a gross revenue of less than seven million dollars annually as reported on its most recent federal income tax return or its most recent return filed with the department of revenue.

(b) "Paperwork violation" means the violation of any statutory or regulatory requirement that mandates the collection of information by an agency, or the collection, posting, or retention of information by a small business. This includes but is not limited to requirements in the Revised Code of Washington, the Washington Administrative Code, the Washington State Register, or any other agency directive.

(c) "First-time paperwork violation" means the first instance of a particular or substantially similar paperwork violation."

On page 1, line 2 of the title, after "businesses;" strike the remainder of the title and insert "and amending RCW 34.05.110."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2603 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representatives Hunt 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 House Bill No. 2603, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2603, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler,

Chase, Clibborn, Cody, Condotta, Conway, Crouse, Dammeier, Darneille, DeBolt, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Dickerson, Flannigan, Hope and Hurst.

SECOND SUBSTITUTE HOUSE BILL NO. 2603, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2747 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 72.09.015 and 2009 c 521 s 165 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and testing services for obtaining a high school diploma or a general equivalency diploma.

(2) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of offenders.

(3) "Community custody" has the same meaning as that provided in RCW 9.94A.030 and also includes community placement and community supervision as defined in RCW 9.94B.020.

(4) "Contraband" means any object or communication the secretary determines shall not be allowed to be: (a) Brought into; (b) possessed while on the grounds of; or (c) sent from any institution under the control of the secretary.

(5) "Correctional facility" means a facility or institution operated directly or by contract by the secretary for the purposes of incarcerating adults in total or partial confinement, as defined in RCW 9.94A.030.

(6) "County" means a county or combination of counties.

~~((6))~~ (7) "Department" means the department of corrections.

~~((7))~~ (8) "Earned early release" means earned release as authorized by RCW 9.94A.728.

~~((8))~~ (9) "Evidence-based" means a program or practice that has had multiple-site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

~~((9))~~ (10) "Extended family visit" means an authorized visit between an inmate and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the inmate is confined.

~~((10))~~ (11) "Good conduct" means compliance with department rules and policies.

~~((11))~~ (12) "Good performance" means successful completion of a program required by the department, including an education, work, or other program.

~~((12))~~ (13) "Immediate family" means the inmate's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, and a person legally married to or in a state registered domestic partnership with an inmate. "Immediate family" does not include an inmate adopted by another inmate or the immediate family of the adopted or adopting inmate.

~~((13))~~ (14) "Indigent inmate," "indigent," and "indigency" mean an inmate who has less than a ten-dollar balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the thirty days previous to the request.

~~((14))~~ (15) "Individual reentry plan" means the plan to prepare an offender for release into the community. It should be developed collaboratively between the department and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the offender's risks and needs. The individual reentry plan describes actions that should occur to prepare individual offenders for release from prison or jail, specifies the supervision and services they will experience in the community, and describes an offender's eventual discharge to aftercare upon successful completion of supervision. An individual reentry plan is updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

~~((15))~~ (16) "Inmate" means a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released from such facility on furlough, work release, or community custody, and persons received from another state, state agency, county, or federal jurisdiction.

~~((16))~~ (17) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(18) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit an offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent an offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive offender who is unwilling to leave the area voluntarily; or

(c) Guide an offender from one location to another.

(19) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the woman or youth leaves the hospital, birthing center, or clinic.

(20) "Privilege" means any goods or services, education or work programs, or earned early release days, the receipt of which are directly linked to an inmate's (a) good conduct; and (b) good performance. Privileges do not include any goods or services the department is required to provide under the state or federal Constitution or under state or federal law.

~~((17))~~ (21) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

~~((18))~~ (22) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

~~((19))~~ (23) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

~~(24)~~ "Secretary" means the secretary of corrections or his or her designee.

~~((20))~~ (25) "Significant expansion" includes any expansion into a new product line or service to the class I business that results from an increase in benefits provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs.

~~((21))~~ (26) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections, or his or her designee.

~~((22))~~ (27) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the correctional facility to another location from the moment she leaves the correctional facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the correctional facility to a transport vehicle and from the vehicle to the other location.

~~(28)~~ "Unfair competition" means any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the correctional industries board shall review and quantify any expenses unique to operating a for-profit business inside a prison.

~~((23))~~ (29) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

~~((24))~~ (30) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

~~((25))~~ (31) "Work programs" means all classes of correctional industries jobs authorized under RCW 72.09.100.

NEW SECTION. Sec. 2. (1) Except in extraordinary circumstances, no restraints of any kind may be used on any pregnant woman or youth incarcerated in a correctional facility during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where a corrections officer makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant woman or youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event the corrections officer determines that extraordinary circumstances exist and restraints are used, the corrections officer must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the corrections officer must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant woman or youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant woman or youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any woman or youth known to be pregnant.

(4) No correctional personnel shall be present in the room during the pregnant woman's or youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant woman or youth requests that restraints not be used, the corrections officer accompanying the pregnant woman or youth shall immediately remove all restraints.

NEW SECTION. Sec. 3. (1) The secretary shall provide an informational packet about the requirements of this act to all medical staff and nonmedical staff who are involved in the transportation of women and youth who are pregnant, as well as such other staff as the secretary deems appropriate. The informational packet provided to staff under this section shall be developed as provided in section 13 of this act.

(2) The secretary shall cause the requirements of this act to be provided to all women or youth who are pregnant, at the time the department assumes custody of the person. In addition, the secretary shall cause a notice containing the requirements of this act to be posted in conspicuous locations in the correctional facilities, including but not limited to the locations in which medical care is provided within the facilities.

Sec. 4. RCW 70.48.020 and 2009 c 411 s 3 are each reenacted and amended to read as follows:

As used in this chapter the words and phrases in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Administration" means the direct application of a drug whether by ingestion or inhalation, to the body of an inmate by a practitioner or nonpractitioner jail personnel.

(2) "Correctional facility" means a facility operated by a governing unit primarily designed, staffed, and used for the housing of adult persons serving terms not exceeding one year for the purposes of punishment, correction, and rehabilitation following conviction of a criminal offense.

(3) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of medication whether or not there is an agency relationship.

(4) "Detention facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the housing of adult persons for purposes of punishment and correction after sentencing or persons serving terms not to exceed ninety days.

(5) "Drug" and "legend drug" have the same meanings as provided in RCW 69.41.010.

(6) "Governing unit" means the city and/or county or any combinations of cities and/or counties responsible for the operation, supervision, and maintenance of a jail.

(7) "Health care" means preventive, diagnostic, and rehabilitative services provided by licensed health care professionals and/or facilities; such care to include providing prescription drugs where indicated.

(8) "Holding facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the temporary housing of such persons during or after trial and/or sentencing, but in no instance shall the housing exceed thirty days.

(9) "Jail" means any holding, detention, special detention, or correctional facility as defined in this section.

(10) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(11) "Major urban" means a county or combination of counties which has a city having a population greater than twenty-six thousand based on the 1978 projections of the office of financial management.

~~((11))~~ (12) "Medication" means a drug, legend drug, or controlled substance requiring a prescription or an over-the-counter or nonprescription drug.

~~((12))~~ (13) "Medication assistance" means assistance rendered by nonpractitioner jail personnel to an inmate residing in a jail to facilitate the individual's self-administration of a legend drug or controlled substance or nonprescription medication. "Medication assistance" includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand.

~~((13))~~ (14) "Medium urban" means a county or combination of counties which has a city having a population equal to or greater than ten thousand but less than twenty-six thousand based on the 1978 projections of the office of financial management.

~~((14))~~ (15) "Nonpractitioner jail personnel" means appropriately trained staff who are authorized to manage, deliver, or administer prescription and nonprescription medication under RCW 70.48.490.

~~((15))~~ (16) "Office" means the office of financial management.

~~((16))~~ (17) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit an offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent an offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive offender who is unwilling to leave the area voluntarily; or

(c) Guide an offender from one location to another.

(18) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the woman or youth leaves the hospital, birthing center, or clinic.

(19) "Practitioner" has the same meaning as provided in RCW 69.41.010.

~~((17))~~ (20) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(21) "Rural" means a county or combination of counties which has a city having a population less than ten thousand based on the 1978 projections of the office of financial management.

~~((18))~~ (22) "Special detention facility" means a minimum security facility operated by a governing unit primarily designed, staffed, and used for the housing of special populations of sentenced persons who do not require the level of security normally provided in detention and correctional facilities including, but not necessarily limited to, persons convicted of offenses under RCW 46.61.502 or 46.61.504.

(23) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the correctional facility or any facility covered by this chapter to another location from the moment she leaves the correctional facility or any facility covered by this chapter to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the correctional facility or facility covered by this chapter to a transport vehicle and from the vehicle to the other location.

NEW SECTION. Sec. 5. (1) Except in extraordinary circumstances no restraints of any kind may be used on any pregnant woman or youth incarcerated in a correctional facility or any facility covered by this chapter during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where a corrections officer or employee of the correctional facility or any facility covered by this chapter makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant woman or youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event the corrections officer or employee of the correctional facility or any facility covered by this chapter determines that extraordinary circumstances exist and restraints are used, the corrections officer or employee must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the corrections officer or employee must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant woman or youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant woman or youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any woman or youth known to be pregnant.

(4) No correctional personnel or employee of the correctional facility or any facility covered by this chapter shall be present in the room during the pregnant woman's or youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant woman or youth requests that restraints not be used, the corrections officer or employee accompanying the pregnant woman or youth shall immediately remove all restraints.

NEW SECTION. Sec. 6. (1) The jail administrator or his or her designee or chief law enforcement executive or his or her designee shall provide notice of the requirements of this act to the appropriate staff at a correctional facility or a facility covered by this chapter. Appropriate staff shall include all medical staff and staff who are involved in the transportation of pregnant women and youth as well as such other staff deemed appropriate.

(2) The jail administrator or his or her designee or chief law enforcement executive or his or her designee shall cause the requirements of this act to be provided to all women and youth of child bearing age at intake. In addition, the jail administrator or his or her designee or chief law enforcement executive or his or her designee shall cause a notice containing the requirements of this act to be posted in locations in which medical care is provided within the facilities.

Sec. 7. RCW 72.05.020 and 1998 c 269 s 2 are each amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility.

(2) "Department" means the department of social and health services.

(3) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(4) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(5) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another.

(6) "Postpartum recovery" means (a) the entire period a youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic.

(7) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(8) "Service provider" means the entity that operates a community facility.

(9) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the institution or community facility to another location from the moment she leaves the institution or community facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the institution or community facility to a transport vehicle and from the vehicle to the other location.

NEW SECTION. Sec. 8. (1) Except in extraordinary circumstances no restraints of any kind may be used on any pregnant youth in an institution or a community facility covered by this chapter during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where an employee of an institution or community facility covered by this chapter makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event an employee of an institution or community facility covered by this chapter determines that extraordinary circumstances exist and restraints are used, the corrections officer or employee must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the employee of an institution or community facility covered by this chapter must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any youth known to be pregnant.

(4) No employee of the institution or community facility shall be present in the room during the pregnant youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant youth requests that restraints not be used, the employee accompanying the pregnant youth shall immediately remove all restraints.

NEW SECTION. Sec. 9. (1) The secretary shall provide an informational packet about the requirements of this act to all medical staff and nonmedical staff of the institution or community facility who are involved in the transportation of youth who are pregnant, as well as such other staff as the secretary deems appropriate. The informational packet provided to staff under this section shall be developed as provided in section 13 of this act.

(2) The secretary shall cause the requirements of this act to be provided to all youth who are pregnant, at the time the secretary assumes custody of the person. In addition, the secretary shall cause a notice containing the requirements of this act to be posted in conspicuous locations in the institutions or community facilities, including but not limited to the locations in which medical care is provided within the facilities.

Sec. 10. RCW 13.40.020 and 2009 c 454 s 2 are each amended to read as follows:

For the purposes of this chapter:

(1) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(2) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed five hundred dollars;

(b) Community restitution not to exceed one hundred fifty hours of community restitution;

(3) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(4) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(5) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county

may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(6) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(7) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(8) "Department" means the department of social and health services;

(9) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(10) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(11) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(12) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(13) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(15) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(16) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

~~(17)~~ (17) "Local sanctions" means one or more of the following: (a) 0- 30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) \$0-\$500 fine;

~~((47))~~ (18) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

~~((48))~~ (19) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

~~((49))~~ (20) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

~~((20))~~ (21) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another.

(22) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

(23) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

~~((24))~~ (24) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

~~((22))~~ (25) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

~~((23))~~ (26) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

~~((27))~~ (27) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

~~((24))~~ (28) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

~~((25))~~ (29) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

~~((26))~~ (30) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

~~((27))~~ (31) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

~~((28))~~ (32) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location.

(33) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

~~((29))~~ (34) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

~~((30))~~ (35) "Youth court" means a diversion unit under the supervision of the juvenile court.

NEW SECTION. Sec. 11. (1) Except in extraordinary circumstances, no restraints of any kind may be used on any pregnant youth in an institution or detention facility covered by this chapter during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where an employee at an institution or detention facility makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event the employee of the institution or detention facility determines that extraordinary circumstances exist and restraints are used, the employee of the institution or detention facility must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the employee of the institution or detention facility must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any youth known to be pregnant.

(4) No employee of the institution or detention facility shall be present in the room during the pregnant youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant youth requests that restraints not be used, the employee of the institution or detention facility accompanying the pregnant youth shall immediately remove all restraints.

NEW SECTION. Sec. 12. (1) The director of the juvenile detention facility shall provide an informational packet about the requirements of this act to all medical staff and nonmedical staff who are involved in the transportation of youth who are pregnant, as well as such other staff as appropriate. The informational packet provided to staff under this section shall be developed as provided in section 13 of this act.

(2) The director shall cause the requirements of this act to be provided to all youth who are pregnant, at the time the facility assumes custody of the person. In addition, the facility shall cause a notice containing the requirements of this act to be posted in conspicuous locations in the detention facilities, including but not limited to the locations in which medical care is provided within the facilities.

NEW SECTION. Sec. 13. The Washington association of sheriffs and police chiefs, the department of corrections, the department of social and health services, juvenile rehabilitation administration, and the criminal justice training commission shall jointly develop an informational packet on the requirements of this act. The packet shall be ready for distribution no later than September 1, 2010.

NEW SECTION. Sec. 14. No civil liability may be imposed by any court on the county or its jail officers or employees under sections 5 and 6 of this act except upon proof of gross negligence.

NEW SECTION. Sec. 15. Sections 2 and 3 of this act are each added to chapter 72.09 RCW.

NEW SECTION. Sec. 16. Sections 5, 6, and 13 of this act are each added to chapter 70.48 RCW.

NEW SECTION. Sec. 17. Sections 8 and 9 of this act are each added to chapter 72.05 RCW.

NEW SECTION. Sec. 18. Sections 11 and 12 of this act are each added to chapter 13.40 RCW."

On page 1, line 2 of the title, after "youth;" strike the remainder of the title and insert "amending RCW 72.09.015, 72.05.020, and 13.40.020; reenacting and amending RCW 70.48.020; adding new sections to chapter 72.09 RCW; adding new sections to chapter 70.48 RCW; adding new sections to chapter 72.05 RCW; adding new sections to chapter 13.40 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2747 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Darneille and Dammeier 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. 2747, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2747, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 93; Nays, 1; Absent, 0; Excused, 4.

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

Voting nay: Representative Kessler.

Excused: Representatives Dickerson, Flannigan, Hope and Hurst.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2747, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2775 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 19.27.070 and 1995 c 399 s 8 are each amended to read as follows:

There is hereby established a state building code council, to be appointed by the governor.

(1) The state building code council shall consist of fifteen members~~((7))~~;

(a) Two ~~((of whom shall))~~ members must be county elected legislative body members or elected executives ~~((and))~~;

(b) Two ~~((of whom shall))~~ members must be city elected legislative body members or mayors~~((7))~~;

(c) One ~~((of the members shall))~~ member must be a local government building code enforcement official ~~((and))~~;

(d) One ~~((of the members shall))~~ member must be a local government fire service official~~((Of the remaining nine members,))~~;

(e) One member shall represent general construction, specializing in commercial and industrial building construction;

(f) One member shall represent general construction, specializing in residential and multifamily building construction;

(g) One member shall represent the architectural design profession;

(h) One member shall represent the structural engineering profession;

(i) One member shall represent the mechanical engineering profession;

(j) One member shall represent the construction building trades;

(k) One member shall represent manufacturers, installers, or suppliers of building materials and components;

(l) One member ~~((shall))~~ must be a person with a physical disability and shall represent the disability community; and

(m) One member shall represent the general public.

(2) At least six of these fifteen members shall reside east of the crest of the Cascade mountains.

(3) The council shall include: Two members of the house of representatives appointed by the speaker of the house, one from each caucus; two members of the senate appointed by the president of the senate, one from each caucus; and an employee of the electrical division of the department of labor and industries, as ex officio, nonvoting members with all other privileges and rights of membership.

(4)(a) Terms of office shall be for three years, or for so long as the member remains qualified for the appointment.

(b) The council shall elect a member to serve as chair of the council for one-year terms of office.

(c) Any member who is appointed by virtue of being an elected official or holding public employment shall be removed from the council if he or she ceases being such an elected official or holding such public employment.

(d) Any member who is appointed to represent a specific private sector industry must maintain sufficiently similar employment or circumstances throughout the term of office to remain qualified to represent the specified industry. Retirement or unemployment is not cause for termination. However, if a councilmember enters into employment outside of the industry he or she has been appointed to represent, then he or she shall be removed from the council.

(e) Any member who no longer qualifies for appointment under this section may not vote on council actions, but may participate as an ex officio, nonvoting member until a replacement member is appointed. A member must notify the council staff and the governor's office within thirty days of the date the member no longer qualifies for appointment under this section. The governor shall appoint a qualified replacement for the member within sixty days of notice.

(5) Before making any appointments to the building code council, the governor shall seek nominations from recognized organizations which represent the entities or interests ~~((listed))~~ identified in this ~~((subsection))~~ section. ~~((Members serving on the council on July 28, 1985, may complete their terms of office. Any vacancy shall be filled by alternating appointments from governmental and nongovernmental entities or interests until the council is constituted as required by this subsection.~~

~~—(2))~~ (6) Members shall not be compensated but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

~~(((3)))~~ (7) The department of ~~((community, trade, and economic development))~~ commerce shall provide administrative and clerical assistance to the building code council."

On page 1, line 1 of the title, after "council;" strike the remainder of the title and insert "and amending RCW 19.27.070."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2775 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Dammeier and Simpson 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. 2775, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2775, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Representatives Dickerson, Flannigan, Hope and Hurst.

SUBSTITUTE HOUSE BILL NO. 2775, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2801 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that despite a recognized law prohibiting harassment, intimidation, and bullying of students in public schools and despite widespread adoption of antiharassment policies by school districts, harassment of students continues and has not declined since the law was enacted. Furthermore, students and parents continue to seek assistance against harassment, and schools need to disseminate more widely their antiharassment policies and procedures. The legislature intends to expand the tools, information, and strategies that can be used to combat harassment, intimidation, and bullying of students, and increase awareness of the need for respectful learning communities in all public schools.

Sec. 2. RCW 28A.300.285 and 2007 c 407 s 1 are each amended to read as follows:

(1) By August 1, ~~((2003))~~ 2011, each school district shall adopt or amend if necessary a policy ~~((-within the scope of its authority,))~~ and procedure that at a minimum incorporates the revised model policy and procedure provided under subsection (4) of this section that prohibits the harassment, intimidation, or bullying of any student. It is the responsibility of each school district to share this policy with parents or guardians, students, volunteers, and school employees in accordance with rules adopted by the superintendent of public instruction. Each school district shall designate one person in the district as the primary contact regarding the antiharassment, intimidation, or bullying policy. The primary contact shall receive copies of all formal and informal complaints, have responsibility for assuring the implementation of the policy and procedure, and serve as the primary contact on the policy and procedures between the school

district, the office of the education ombudsman, and the office of the superintendent of public instruction.

(2) "Harassment, intimidation, or bullying" means any intentional electronic, written, verbal, or physical act, including but not limited to one shown to be motivated by any characteristic in RCW 9A.36.080(3), or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act:

(a) Physically harms a student or damages the student's property; or

(b) Has the effect of substantially interfering with a student's education; or

(c) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(d) Has the effect of substantially disrupting the orderly operation of the school.

Nothing in this section requires the affected student to actually possess a characteristic that is a basis for the harassment, intimidation, or bullying.

(3) The policy and procedure should be adopted or amended through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives. It is recommended that each such policy emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying.

(4)~~(a)~~ By August 1, ~~((2002))~~ 2010, the superintendent of public instruction, in consultation with representatives of parents, school personnel, the office of the education ombudsman, the Washington state school directors' association, and other interested parties, shall provide to ~~((school districts and educational service districts a))~~ the education committees of the legislature a revised and updated model harassment, intimidation, and bullying prevention policy and procedure. The superintendent of public instruction shall publish on its web site, with a link to the safety center web page, the revised and updated model harassment, intimidation, and bullying prevention policy and procedure, along with training and instructional materials on the components that ~~((should))~~ shall be included in any district policy and procedure. The superintendent shall adopt rules regarding school districts' communication of the policy and procedure to parents, students, employees, and volunteers. ~~((Training materials shall be disseminated in a variety of ways, including workshops and other staff developmental activities, and through the office of the superintendent of public instruction's web site, with a link to the safety center web page. On the web site:~~

~~(a) The office of the superintendent of public instruction shall post its model policy, recommended training materials, and instructional materials;))~~

(b) The office of the superintendent of public instruction has the authority to update with new technologies access to this information in the safety center, to the extent resources are made available ~~((and))~~.

(c) ~~((Individual school districts shall have direct access to the safety center web site to post a brief summary of their policies, programs, partnerships, vendors, and instructional and training materials, and to provide a link to the school district's web site for further information.))~~ Each school district shall by August 15, 2011, provide to the superintendent of public instruction a brief summary of its policies, procedures, programs, partnerships, vendors, and instructional and training materials to be posted on the school safety center web site, and shall also provide the superintendent with a link to the school district's web site for further information. The district's primary contact for bullying and harassment issues shall annually by August 15th verify posted information and links and notify the school safety center of any updates or changes.

(5) The Washington state school directors association, with the assistance of the office of the superintendent of public instruction, shall convene an advisory committee to develop a model policy prohibiting acts of harassment, intimidation, or bullying that are conducted via electronic means by a student while on school grounds and during the school day. The policy shall include a requirement that materials meant to educate parents and students about the seriousness of cyberbullying be disseminated to parents or made available on the school district's web site. The school directors association and the advisory committee shall develop sample materials for school districts to disseminate, which shall also include information on responsible and safe internet use as well as what options are available if a student is being bullied via electronic means, including but not limited to, reporting threats to local police and when to involve school officials, the internet service provider, or phone service provider. The school directors association shall submit the model policy and sample materials, along with a recommendation for local adoption, to the governor and the legislature and shall post the model policy and sample materials on its web site by January 1, 2008. Each school district board of directors shall establish its own policy by August 1, 2008.

(6) As used in this section, "electronic" or "electronic means" means any communication where there is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means.

NEW SECTION. Sec. 3. A new section is added to chapter 43.06B RCW to read as follows:

In addition to duties assigned under RCW 43.06B.020, the office of the education ombudsman shall serve as the lead agency to provide resources and tools to parents and families about public school antiharassment policies and strategies."

On page 1, line 1 of the title, after "schools;" strike the remainder of the title and insert "amending RCW 28A.300.285; adding a new section to chapter 43.06B RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2801 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Liias and Priest 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. 2801, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2801, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Dammeier, Darneille, DeBolt, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Fagan, Finn, Goodman, Green, Haigh, Haler, Hasegawa, Herrera,

Hinkle, Hudgins, Hunt, Hunter, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nealey, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Dickerson, Flannigan, Hope and Hurst.

SUBSTITUTE HOUSE BILL NO. 2801, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 2805 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 39.04 RCW to read as follows:

(1) For any public work estimated to cost over one million dollars, the contract must contain a provision requiring the submission of certain information about off-site, prefabricated, nonstandard, project specific items produced under the terms of the contract and produced outside Washington. The information must be submitted to the department of labor and industries under subsection (2) of this section. The information that must be provided is:

(a) The estimated cost of the public works project;

(b) The name of the awarding agency and the title of the public works project;

(c) The contract value of the off-site, prefabricated, nonstandard, project specific items produced outside Washington, including labor and materials; and

(d) The name, address, and federal employer identification number of the contractor that produced the off-site, prefabricated, nonstandard, project specific items.

(2)(a) The required information under this section must be submitted by the contractor or subcontractor as a part of the affidavit of wages paid form filed with the department of labor and industries under RCW 39.12.040. This information is only required to be submitted by the contractor or subcontractor who directly contracted for the off-site, prefabricated, nonstandard, project specific items produced outside Washington.

(b) The department of labor and industries shall include requests for the information about off-site, prefabricated, nonstandard, project specific items produced outside Washington on the affidavit of wages paid form required under RCW 39.12.040.

(c) The department of general administration shall develop standard contract language to meet the requirements of subsection (1) of this section and make the language available on its web site.

(d) Failure to submit the information required in subsection (1) of this section as part of the affidavit of wages paid form does not constitute a violation of RCW 39.12.050.

(3) For the purposes of this section, "off-site, prefabricated, nonstandard, project specific items" means products or items that are: (a) Made primarily of architectural or structural precast concrete, fabricated steel, pipe and pipe systems, or sheet metal and sheet metal duct work; (b) produced specifically for the public work and not considered to be regularly available shelf items; (c) produced or

manufactured by labor expended to assemble or modify standard items; and (d) produced at an off-site location.

(4) The department of labor and industries shall transmit information collected under this section to the capital projects advisory review board created in RCW 39.10.220 for review.

(5) This section applies to contracts entered into between September 1, 2010, and December 31, 2013.

(6) This section does not apply to department of transportation public works projects.

(7) This section does not apply to local transportation public works projects.

Sec. 2. RCW 39.04.350 and 2009 c 197 s 2 are each amended to read as follows:

(1) Before award of a public works contract, a bidder must meet the following responsibility criteria to be considered a responsible bidder and qualified to be awarded a public works project. The bidder must:

(a) At the time of bid submittal, have a certificate of registration in compliance with chapter 18.27 RCW;

(b) Have a current state unified business identifier number;

(c) If applicable, have industrial insurance coverage for the bidder's employees working in Washington as required in Title 51 RCW; an employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW;

(d) Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3); ~~((and))~~

(e) If bidding on a public works project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation; and

(f) Until December 31, 2013, not have violated section 1 of this act more than one time as determined by the department of labor and industries.

(2) In addition to the bidder responsibility criteria in subsection (1) of this section, the state or municipality may adopt relevant supplemental criteria for determining bidder responsibility applicable to a particular project which the bidder must meet.

(a) Supplemental criteria for determining bidder responsibility, including the basis for evaluation and the deadline for appealing a determination that a bidder is not responsible, must be provided in the invitation to bid or bidding documents.

(b) In a timely manner before the bid submittal deadline, a potential bidder may request that the state or municipality modify the supplemental criteria. The state or municipality must evaluate the information submitted by the potential bidder and respond before the bid submittal deadline. If the evaluation results in a change of the criteria, the state or municipality must issue an addendum to the bidding documents identifying the new criteria.

(c) If the bidder fails to supply information requested concerning responsibility within the time and manner specified in the bid documents, the state or municipality may base its determination of responsibility upon any available information related to the supplemental criteria or may find the bidder not responsible.

(d) If the state or municipality determines a bidder to be not responsible, the state or municipality must provide, in writing, the reasons for the determination. The bidder may appeal the determination within the time period specified in the bidding documents by presenting additional information to the state or municipality. The state or municipality must consider the additional information before issuing its final determination. If the final determination affirms that the bidder is not responsible, the state or

municipality may not execute a contract with any other bidder until two business days after the bidder determined to be not responsible has received the final determination.

(3) The capital projects advisory review board created in RCW 39.10.220 shall develop suggested guidelines to assist the state and municipalities in developing supplemental bidder responsibility criteria. The guidelines must be posted on the board's web site."

On page 1, line 1 of the title, after "prefabrication;" strike the remainder of the title and insert "amending RCW 39.04.350; and adding a new section to chapter 39.04 RCW."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 2805 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Ormsby and Dunshee spoke in favor of the passage of the bill.

Representatives Condotta and Warnick 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 House Bill No. 2805, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 2805, as amended by the Senate, and the bill passed the House by the following vote: Yeas: 53 Nays: 41 Absent: 0 Excused: 4

Voting yea: Representatives Appleton, Blake, Campbell, Carlyle, Chase, Chopp, Clibborn, Cody, Conway, Darneille, Driscoll, Dunshee, Ericks, Goodman, Green, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Lias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Nelson, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Quall, Roberts, Rolfes, Santos, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, and Wood

Voting nay: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Chandler, Condotta, Crouse, Dammeier, DeBolt, Eddy, Ericksen, Fagan, Finn, Haigh, Haler, Herrera, Hinkle, Johnson, Klippert, Kretz, Kristiansen, McCune, Morris, Nealey, O'Brien, Orcutt, Parker, Pearson, Priest, Roach, Rodne, Ross, Schmick, Seaquist, Shea, Short, Smith, Taylor, Walsh, and Warnick

Excused: Representatives Dickerson, Flannigan, Hope, and Hurst

ENGROSSED HOUSE BILL NO. 2805, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2010

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 3040 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Appraisal" means the act or process of estimating value; an estimate of value; or of pertaining to appraising and related functions.

(2) "Appraisal management company" means an entity that performs appraisal management services, regardless of the use of the term appraisal management company, mortgage technology provider, lender processing services, lender services, loan processor, mortgage services, real estate closing services provider, settlement services provider, or vendor management company, or any other term.

(3) "Appraisal management services" means to perform any or all of the following functions on behalf of a lender, financial institution, mortgage broker, loan originator, or any other person:

(a) Administer an appraiser panel;

(b) Recruit, qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel;

(c) Receive an order for an appraisal from one person, or entity, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;

(d) Track and determine the status of appraisal orders;

(e) Conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal; and

(f) Provide a completed appraisal performed by an appraiser to one or more persons that have ordered an appraisal.

(4) "Appraisal review" or "appraisal review services" means developing and communicating an opinion about the quality of another appraiser's work that was performed, or assignment results that were developed, as part of an appraisal assignment.

(5) "Appraiser" means a person who is licensed or certified under chapter 18.140 RCW or under similar laws of another state.

(6) "Appraiser panel" means a network of appraisers who are independent contractors of an appraisal management company that have:

(a) Independently applied to or responded to an invitation, request, or solicitation from an appraisal management company to perform appraisals for persons, or entities, that have ordered appraisals through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as assigned by the appraisal management company; and

(b) Been selected, and approved, by an appraisal management company to perform appraisals for a person, or entity, that has ordered an appraisal through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as assigned by the appraisal management company.

(7) "Controlling person" means:

(a) An owner, officer, or director of a corporation, partnership, or other business entity seeking to offer appraisal management services in this state;

(b) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals;

(c) An individual who possesses the power to direct or cause the direction of the management or policies of an appraisal management company;

(d) Any person who controls a partnership, company, association, or corporation through one or more intermediaries, alone or in concert with others, or a ten percent or greater interest in a partnership, company, association, or corporation; or

(e) Any person who controls a limited liability company or is the owner of a sole proprietorship.

(8) "Department" means the department of licensing.

(9) "Director" means the director of the department of licensing.

"NEW SECTION. Sec. 2. POWERS AND DUTIES OF DIRECTOR. The director shall:

(1) Adopt rules to implement this chapter;

(2) Establish appropriate administrative procedures for the processing of the applications;

(3) Issue licenses to qualified companies under the provisions of this chapter; and

(4) Maintain a roster of the names and addresses of companies licensed under this chapter;

(5) Employ professional, clerical, and technical assistance as may be necessary to properly administer the work of the director;

(6) Establish forms necessary to administer this chapter;

(7) Oversee the performance of any background investigations;

(8) Initiate and oversee investigations and any audits;

(9) Establish grounds for disciplinary actions;

(10) Adopt fees under RCW 43.24.086; and

(11) Do all other things necessary to carry out the provisions of this chapter and comply with the requirements of any pertinent federal laws pertaining to appraisal management companies.

"NEW SECTION. Sec. 3. IMMUNITY. The director or individuals acting on behalf of the director are immune from suit in any action, civil or criminal, based on any acts performed in the course of their duties except for their intentional or willful misconduct.

"NEW SECTION. Sec. 4. APPLICATIONS--ORIGINAL AND RENEWALS. (1) Applications for licensure must be made to the department on forms approved by the director. A license is valid for two years and must be renewed on or before the expiration date. Applications for original and renewal licenses must include a statement confirming that the company must comply with applicable rules and that the company understands the penalties for misconduct.

(2) The appropriate fees must accompany all applications for original licensure and renewal.

(3) Each applicant shall file and maintain a surety bond, approved by the director, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, whose liability as the surety may not exceed in the aggregate the penal sum of the bond. The penal sum of the bond must be a minimum of twenty-five thousand dollars. The bond must run to the state of Washington as obligee for the use and benefit of the state and of any person or persons who may have a cause of action against the obligor under this chapter. The bond must be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all the rules adopted under this chapter. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of this chapter.

"NEW SECTION. Sec. 5. OUT OF STATE COMPANIES--CONSENT FOR SERVICE OF PROCESS. Every company seeking licensure whose headquarters is not based in the state of Washington shall submit, with the application for licensure, an irrevocable consent that service of process upon the controlling person or persons may be made by service on the director if, in an action against the entity in a Washington state court arising out of the entity's activities as an appraisal management company, the plaintiff cannot, in the exercise of due diligence, obtain personal service upon the company.

"NEW SECTION. Sec. 6. LICENSURE--REQUIRED USE OF NAME AND LICENSE NUMBER. (1) A license issued under this

chapter must bear the signature or facsimile signature of the director and a license number assigned by the director.

(2) Each licensed appraisal management company shall place the name under which it does business and its license number on any appraisal engagement document issued.

NEW SECTION. Sec. 7. LICENSURE REQUIRED. (1) It is unlawful for an entity to engage or attempt to engage in business as an appraisal management company, to engage or attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a license issued by the department under this chapter.

(2) An application for the issuance or renewal of a license required by subsection (1) of this section must, at a minimum, include the following information:

- (a) Name of the entity seeking licensure;
- (b) Names under which the entity will do business;
- (c) Business address of the entity seeking licensure;
- (d) Phone contact information of the entity seeking licensure;
- (e) If the entity is not a corporation that is domiciled in this state, the name and contact information for the company's agent for service of process in this state;
- (f) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns ten percent or more of the appraisal management company;
- (g) The name, address, and contact information for a controlling person;
- (h) A certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company for work being done in this state holds a license or certificate in good standing under chapter 18.140 RCW;
- (i) A certification that the entity has a system in place to review the work of appraisers that are performing real estate appraisal services on a periodic basis and have a policy in place to require that the real estate appraisal services provided by the appraiser are being conducted in accordance with chapter 18.140 RCW and other applicable state and federal laws;
- (j) A certification that the entity maintains a detailed record of each service request that it receives and the appraiser that performs the real estate appraisal services under section 13 of this act;
- (k) A certification that the entity maintains a complete copy of the completed appraisal report performed as a part of any request, for a minimum period of five years, or at least two years after final disposition of any judicial proceeding related to the assignment, under uniform standards of professional appraisal practice provisions, and that the appraisals must be provided to the department upon demand;
- (l) An irrevocable uniform consent to service of process, under section 6 of this act; and
- (m) Any other relevant information reasonably required by the department to obtain a license under the requirements of this chapter.

NEW SECTION. Sec. 8. OWNER REQUIREMENTS. (1) Each entity owning more than ten percent of an appraisal management company may not be:

- (a) Directly controlled by a person who has had a license or certificate to act as an appraiser refused, denied, canceled, or revoked; or
- (b) More than ten percent owned by any person who has had a license or certificate to act as an appraiser refused, denied, canceled, or revoked in any state.

(2) Each person that owns more than ten percent of an appraisal management company must:

- (a) Not have had a license or certificate to act as an appraiser refused, denied, canceled, or revoked in any state;
- (b) Be of good moral character, as determined by the department; and

(c) Submit to a background investigation under section 15 of this act.

(3) Each appraisal management company must certify to the department that it has reviewed each and every individual or entity that owns more than ten percent of the appraisal management company and that no person or entity that owns more than ten percent of the appraisal management company is prohibited from owning an appraisal management company under this section.

(4) A person under this section may appeal an adjudicative proceeding involving a final decision of the director to deny, suspend, or revoke a license under chapter 18.235 RCW.

NEW SECTION. Sec. 9. CONTROLLING PERSON REQUIREMENTS. (1)(a) An appraisal management company shall designate one controlling person that will be the main contact for all communication between the department and the appraisal management company.

(b) Should the controlling person change, the appraisal management company must notify the director within fourteen business days and provide the name and contact information of the new controlling person.

(2) The controlling person designated under subsection (1) of this section must:

- (a) Have never had a license or certificate to act as an appraiser surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked in any state;
- (b) Be of good moral character, as determined by the department; and
- (c) Submit to a background investigation under section 15 of this act.

NEW SECTION. Sec. 10. APPRAISER REQUIREMENTS. (1) An appraisal management company may not knowingly contract with or employ as an appraiser:

- (a) Any person who has ever had a license or certificate to act as an appraiser in this state, or in any other state, surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked;
- (b) Any person who has been convicted of an offense that reflects adversely upon the person's integrity, competence, or fitness to meet the responsibilities of an appraiser or appraisal management company;
- (c) Any person who has been convicted of, or who has pled guilty or nolo contendere to, a felony related to participation in the real estate or mortgage loan industry:
 - (i) During the seven-year period preceding the date of the application for licensing and registration; or
 - (ii) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;
- (d) Any person who is in violation of chapter 19.146 or 31.04 RCW; or
- (e) Any person who is in violation of this chapter.

(2) An appraisal management company may not:

(a) Knowingly enter into any independent contractor arrangement for appraisal or appraisal review services with any person who has ever had a license or certificate to act as an appraiser in this state, or in any other state, surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked; and

(b) Knowingly enter into any contract, agreement, or other business relationship for appraisal or appraisal review services with any entity that employs, has entered into an independent contractor arrangement, or has entered into any contract, agreement, or other business relationship with any person who has ever had a license or certificate to act as an appraiser in this state or in any other state surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked.

(3) Any employee of the appraisal management company, or any contractor working in any capacity on behalf of the appraisal

management company, that has any involvement in the actual performance of appraisal or appraisal review services, or review and analysis of completed appraisals must be a state licensed or state certified appraiser in the state in which the property is located, and must have geographic and product competence. This requirement does not apply to any review or examination of the appraisal for grammatical, typographical, or similar errors or general reviews of the appraisal for completeness.

NEW SECTION. Sec. 11. EXEMPTIONS. The provisions of this chapter do not apply to the following:

(1) A department or unit within a financial institution that is subject to direct regulation by an agency of the United States government, or to regulation by an agency of this state, that receives a request for the performance of an appraisal from one employee of the financial institution, and another employee of the same financial institution assigns the request for the appraisal to an appraiser that is part of an appraiser panel; or

(2) An appraiser that enters into an agreement, whether written or otherwise, with another appraiser for the performance of an appraisal, and upon completion of the appraisal, the report of the appraiser performing the appraisal is signed by both the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal.

NEW SECTION. Sec. 12. RECORDKEEPING. An appraisal management company must certify to the department on initial application and upon renewal, that it maintains a detailed record of each service request that it receives and the appraiser that performs the appraisal for the appraisal management company. This statement must also certify that the appraisal management company maintains a complete copy of the completed appraisal report, for a minimum period of five years after the appraisal is completed, or two years after final disposition of a judicial proceeding related to the assignment, whichever period expires later.

NEW SECTION. Sec. 13. ADJUDICATION OF DISPUTES BETWEEN AN APPRAISAL MANAGEMENT COMPANY AND AN APPRAISER. (1) Except within the first thirty days after an appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an appraiser without:

(a) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company, including if the appraiser is being removed from the panel for illegal conduct, a violation of state licensing standards, substandard performance, or administrative purposes. In addition, if the removal is not for administrative purposes, the nature of the alleged conduct, substandard performance, or violation must be provided; and

(b) Providing an opportunity for the appraiser to respond to the notification of the appraisal management company.

(2) An appraiser that is removed from the appraiser panel of an appraisal management company for alleged illegal conduct or a violation of state licensing standards, may file a complaint with the department for a review of the decision of the appraisal management company, except that in no case will the department make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company which is unrelated to the actions specified in subsection (1) of this section.

(3) If an appraiser files a complaint against an appraisal management company pursuant to subsection (2) of this section, the department may investigate the complaint within one hundred eighty days during which time the appraiser must remain removed from the panel.

(4) If after opportunity for hearing and review, the department determines that an appraiser did not commit a violation of law or a

violation of state licensing standards, the department shall order that an appraiser be restored to the appraiser panel of the appraisal management company that was the subject of the complaint without prejudice.

(5) Following the adjudication of a complaint to the department by an appraiser against an appraisal management company, an appraisal management company may not refuse to make assignments for real estate appraisal services to an appraiser, or reduce the number of assignments, or otherwise penalize the appraiser because of the adjudicated complaint, if the department has found that the appraisal management company acted without reasonable cause in removing the appraiser from the appraiser panel.

NEW SECTION. Sec. 14. DISCIPLINARY ACTIONS-- GROUND. (1) In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action for the following:

(a) Failing to meet the minimum qualifications for licensure established under this chapter;

(b) Failing to pay appraisers no later than forty-five days after completion of the appraisal service unless otherwise agreed or unless the appraiser has been notified in writing that a bona fide dispute exists regarding the performance or quality of the appraisal service;

(c) Failing to pay appraisers even if the appraisal management company is not paid by its client;

(d) Coercing, extorting, colluding, compensating, inducing, intimidating, bribing an appraiser, or in any other manner including:

(i) Withholding or threatening to withhold timely payment for an appraisal;

(ii) Requiring the appraiser to remit a portion of the appraisal fee back to the appraisal management company;

(iii) Withholding or threatening to withhold future business for, or demoting or terminating or threatening to demote or terminate, an appraiser;

(iv) Expressly or impliedly promising future business, promotions, or increased compensation for an appraiser;

(v) Conditioning the request for an appraisal or the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;

(vi) Requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time prior to the appraiser's completion of an appraisal;

(vii) Providing to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions must be provided to the appraiser;

(viii) Providing to an appraiser, or any entity or person related to the appraiser, stock or other financial or nonfinancial benefits;

(ix) Obtaining, using, or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is done pursuant to a bona fide prefunding or postfunding appraisal review or quality control process; or

(x) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality, or that violates law;

(e) Altering, modifying, or otherwise changing a completed appraisal report submitted by an appraiser;

(f) Copying and using the appraiser's signature for any purpose or in any other report;

(g) Extracting, copying, or using only a portion of the appraisal report without reference to the entire report;

(h) Prohibiting or attempting to prohibit the appraiser from including or referencing the appraisal fee, the appraisal management company name or identity, or the client's or lender's name or identity in the appraisal report;

(i) Knowingly requiring an appraiser to prepare an appraisal report, engaging an appraiser to perform an appraisal, or accepting an appraisal from an appraiser who has informed the appraisal management company that he or she does not have either the geographic competence or necessary expertise to complete the appraisal;

(j) Knowingly requiring an appraiser to prepare an appraisal report under such a limited time frame when the appraiser, in the appraiser's own professional judgment, has informed the appraisal management company that it does not afford the appraiser the ability to meet all relevant legal and professional obligations or provide a credible opinion of value for the property being appraised. This subsection (1)(j) allows an appraiser to decline an assignment, but is not a basis for complaints against the appraisal management company;

(k) Requiring, or attempting to require, an appraiser to modify an appraisal report except as permitted under subsection (2)(a) or (b) of this section;

(l) Prohibiting, or attempting to prohibit, or inhibiting legal or other allowable communication between the appraiser and:

- (i) The lender;
- (ii) A real estate licensee;
- (iii) A property owner; or

(iv) Any other party or person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant or pertinent in completing the appraisal;

(m) Knowingly requiring or attempting to require the appraiser to do anything that violates chapter 18.140 RCW or other applicable state and federal laws or with any allowable assignment conditions or certifications required by the client;

(n) Prohibiting or refusing to allow, or attempting to prohibit or refuse to allow, the transfer of an appraisal from one lender to another lender if the lenders are allowed to transfer an appraisal under applicable federal law; or

(o) Requiring an appraiser to sign any indemnification agreement that would require the appraiser to defend and hold harmless the appraisal management company or any of its agents, employees, or independent contractors for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser.

(2) Nothing in subsection (1) of this section may be construed as prohibiting the appraisal management company from requesting that an appraiser:

(a) Provide additional information about the basis for a valuation, including whether or not the appraiser considered other sales and reasons the other sales were either not considered relevant or included in the appraisal; or

(b) Correct objective factual errors in an appraisal report.

NEW SECTION. Sec. 15. BACKGROUND INVESTIGATIONS. Background investigations under this chapter consist of fingerprint-based background checks through the Washington state patrol criminal identification system and through the federal bureau of investigation. The applicant is required to pay the current federal and state fees for fingerprint-based criminal history background checks. The applicant shall submit the fingerprints and required fees for the background checks to the department for submission to the Washington state patrol.

NEW SECTION. Sec. 16. APPRAISAL MANAGEMENT COMPANY ACCOUNT. The appraisal management company

account is created in the state treasury. All fees and penalties under this chapter must be paid to the account. Expenditures from the account may be used only for expenses incurred in carrying out the provisions of this chapter. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 17. UNIFORM REGULATION OF BUSINESS AND PROFESSIONS ACT. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

Sec. 18. RCW 18.235.020 and 2009 c 412 s 22, 2009 c 370 s 20, and 2009 c 102 s 5 are each reenacted and amended to read as follows:

(1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

- (i) Auctioneers under chapter 18.11 RCW;
- (ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;
- (iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;
- (iv) Commercial telephone solicitors under chapter 19.158 RCW;
- (v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;
- (vi) Court reporters under chapter 18.145 RCW;
- (vii) Driver training schools and instructors under chapter 46.82 RCW;
- (viii) Employment agencies under chapter 19.31 RCW;
- (ix) For hire vehicle operators under chapter 46.72 RCW;
- (x) Limousines under chapter 46.72A RCW;
- (xi) Notaries public under chapter 42.44 RCW;
- (xii) Private investigators under chapter 18.165 RCW;
- (xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;
- (xiv) Real estate appraisers under chapter 18.140 RCW;
- (xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;
- (xvi) Security guards under chapter 18.170 RCW;
- (xvii) Sellers of travel under chapter 19.138 RCW;
- (xviii) Timeshares and timeshare salespersons under chapter 64.36 RCW;
- (xix) Whitewater river outfitters under chapter 79A.60 RCW;
- ~~((and))~~
- (xx) Home inspectors under chapter 18.280 RCW; ~~((and))~~
- (xxi) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and
- (xxii) Appraisal management companies under chapter 18.-- RCW (the new chapter created in section 20 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The state board of registration for architects established in chapter 18.08 RCW;

(ii) The Washington state collection agency board established in chapter 19.16 RCW;

(iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

(v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and

(vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority.

NEW SECTION. Sec. 19. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 20. Sections 1 through 17 and 19 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 21. This act takes effect July 1, 2011."

On page 1, line 1 of the title, after "companies;" strike the remainder of the title and insert "reenacting and amending RCW 18.235.020; adding a new chapter to Title 18 RCW; and providing an effective date."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 3040 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 3040, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 3040, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 0; Absent, 0; Excused, 4.

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

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

Excused: Representatives Dickerson, Flannigan, Hope and Hurst.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3040, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

RECONSIDERATION

There being no objection, the House reconsidered the vote by which SUBSTITUTE HOUSE BILL NO. 2593, as amended by the Senate, passed the House.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2593, as amended by the Senate, on reconsideration.

ROLL CALL

The Clerk called the roll on final passage of Substitute House Bill No. 2593, as amended by the Senate on reconsideration, and the bill passed the House by the following vote: Yeas, 63; Nays, 31; Absent, 0; Excused, 4.

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

Voting nay: Representatives Alexander, Anderson, Angel, Armstrong, Campbell, Condotta, Crouse, Dammeier, DeBolt, Ericksen, Fagan, Haler, Herrera, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Parker, Pearson, Priest, Roach, Rodne, Ross, Schmick, Shea, Short, Walsh and Warnick.

Excused: Representatives Dickerson, Flannigan, Hope and Hurst.

SUBSTITUTE HOUSE BILL NO. 2593, as amended by the Senate, on reconsideration, having received the necessary constitutional majority, was declared passed.

RECONSIDERATION

There being no objection, the House immediately reconsidered the vote by which HOUSE BILL NO. 2805, as amended by the Senate, passed the House.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2805, on reconsideration.

ROLL CALL

The Clerk called the roll on final passage of House Bill No. 2805, as amended by the Senate, on reconsideration, and the bill passed the House by the following vote: Yeas, 52; Nays, 42; Absent, 0; Excused, 4.

Voting yea: Representatives Appleton, Blake, Campbell, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Driscoll,

Dunshee, Ericks, Goodman, Green, Hasegawa, Hudgins, Hunt, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Lias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Nelson, Ormsby, Orwall, Pedersen, Pettigrew, 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, Eddy, Ericksen, Fagan, Finn, Haigh, Haler, Herrera, Hinkle, Hunter, Johnson, Klippert, Kretz, Kristiansen, McCune, Morris, Nealey, O'Brien, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh and Warnick.

Excused: Representatives Dickerson, Flannigan, Hope and Hurst.

HOUSE BILL NO. 2805, as amended by the Senate, on reconsideration, having received the necessary constitutional majority, was declared passed.

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

There being no objection, the House adjourned until 10:00 a.m., March 8, 2010, the 57th Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk

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