
ONE HUNDRED SECOND DAY

House Chamber, Olympia, Thursday, April 21, 2011

as not found

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

Thomas Hoemann, Secretary

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Maggie Harger and Daniel Miyake. The Speaker (Representative Moeller presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Stake President Alan Whipple, Snohomish Stake of the Church of Jesus Christ of Latter Day Saints, Washington.

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

The Speaker (Representative Moeller presiding) called upon Representative Orwall to preside.

MESSAGES FROM THE SENATE

April 20, 2011

MR. SPEAKER:

The Senate concurred in the House amendment(s) to the following bills and passed the bills as amended by the House:

SUBSTITUTE SENATE BILL 5700
SENATE BILL 5731
SUBSTITUTE SENATE BILL 5741

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 20, 2011

MR. SPEAKER:

The President has signed:

SUBSTITUTE SENATE BILL 5540
SUBSTITUTE SENATE BILL 5579
SUBSTITUTE SENATE BILL 5590
SUBSTITUTE SENATE BILL 5784

and the same are herewith transmitted.

Thomas Hoemann, Secretary

The Speaker (Representative Moeller presiding) called upon Representative Orwall to preside.

April 21, 2011

MR. SPEAKER:

The President has signed:

SECOND SUBSTITUTE SENATE BILL 5595
SUBSTITUTE SENATE BILL 5614
SUBSTITUTE SENATE BILL 5658
SUBSTITUTE SENATE BILL 5688
SUBSTITUTE SENATE BILL 5700
SENATE BILL 5731
SUBSTITUTE SENATE BILL 5741

and the same are herewith transmitted.

INTRODUCTIONS AND FIRST READING

HB 2103 by Representatives Green, Miloscia, Van De Wege, Reykdal, Liias, McCoy, Appleton, Fitzgibbon, Lytton, Moscoso, Jinkins, Moeller, Kenney, Hunt, Hudgins, Kirby, Hasegawa, Ryu, Goodman and Stanford

AN ACT Relating to prohibiting certain employer communications about political or religious matters; adding new sections to chapter 49.44 RCW; and creating a new section.

Referred to Committee on Labor & Workforce Development.

HB 2104 by Representatives Ormsby, Liias, Reykdal, Moscoso, Jinkins, Moeller, Hudgins, McCoy, Kirby, Hasegawa, Ryu, Appleton, Kenney, Fitzgibbon, Goodman, Miloscia and Hunt

AN ACT Relating to prohibiting deductions of workers' compensation premiums and other costs from wages and earnings; and amending RCW 51.16.140, 51.32.073, 51.32.242, and 51.32.370.

Referred to Committee on Labor & Workforce Development.

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.

REPORTS OF STANDING COMMITTEES

April 14, 2011

HB 1981 Prime Sponsor, Representative Bailey: Addressing public employee postretirement employment and higher education employees' annuities and retirement income plans. Reported by Committee on Ways & Means

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle; Chandler; Cody; Dickerson; Haigh; Haler; Hinkle; Hudgins; Kagi; Kenney; Ormsby; Parker; Pettigrew; Ross; Schmick; Seaquist; Springer; Sullivan and Wilcox.

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

Passed to Committee on Rules for second reading.

April 18, 2011

HB 2025 Prime Sponsor, Representative Springer: Freezing industrial insurance cost-of-living increases. Reported by Committee on Labor & Workforce Development

MAJORITY recommendation: Do pass. Signed by Representatives Sells, Chair; Reykdal, Vice Chair; Green; Kenney; Miloscia; Moeller and Roberts.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Fagan; Ormsby; Taylor and Warnick.

Passed to Committee on Rules for second reading.

April 15, 2011

HB 2033 Prime Sponsor, Representative Darneille: Consolidating arts and heritage programs for the purpose of streamlining government and improving efficiency. Reported by Committee on Ways & Means

MAJORITY recommendation: The substitute bill by Committee on State Government & Tribal Affairs be substituted therefor and the substitute bill do pass. Signed by Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Dammeier, Assistant Ranking Minority Member; Carlyle; Cody; Dickerson; Haigh; Hudgins; Hunt; Kagi; Kenney; Ormsby; Parker; Pettigrew; Seaquist; Springer; Sullivan and Wilcox.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Chandler; Haler; Hinkle and Schmick.

Passed to Committee on Rules for second reading.

April 15, 2011

HB 2070 Prime Sponsor, Representative Seaquist: Determining average salary for the pension purposes of state and local government employees as certified by their employer. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle; Chandler; Cody; Dickerson; Haigh; Haler; Hinkle; Hudgins; Hunt; Kagi; Kenney; Ormsby; Parker; Pettigrew; Schmick; Seaquist; Springer; Sullivan and Wilcox.

Passed to Committee on Rules for second reading.

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

The Speaker (Representative Moeller presiding) called upon Representative Orwall to preside.

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

THIRD READING

MESSAGE FROM THE SENATE

April 21, 2011

Mr. Speaker:

The Senate refuses to concur in the House amendment to SUBSTITUTE HOUSE BILL NO. 1081 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House insisted on its position in its amendment to SUBSTITUTE HOUSE BILL NO. 1081 and asked the Senate to concur therein.

MESSAGE FROM THE SENATE

April 21, 2011

Mr. Speaker:

The Senate receded from its amendment to SUBSTITUTE HOUSE BILL NO. 1053 and under suspension of the rules returned SUBSTITUTE HOUSE BILL NO. 1053 to second reading for purpose of amendment. The Senate further adopted amendment 1053-S AMS KLIN S2930.2 and passed the measure as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 11.88.020 and 1997 c 312 s 1 are each amended to read as follows:

(1) Any suitable person over the age of eighteen years, or any parent under the age of eighteen years or, if the petition is for appointment of a professional guardian, any individual or guardianship service that meets any certification requirements established by the administrator for the courts, may, if not otherwise disqualified, be appointed guardian or limited guardian of the person and/or the estate of an incapacitated person. A financial institution subject to the jurisdiction of the department of financial institutions and authorized to exercise trust powers, and a federally chartered financial institution when authorized to do so, may act as a guardian of the estate of an incapacitated person without having to meet the certification requirements established by the administrator for the courts. No person is qualified to serve as a guardian who is

(a) under eighteen years of age except as otherwise provided herein;

(b) of unsound mind;

(c) convicted of a felony or of a misdemeanor involving moral turpitude;

(d) a nonresident of this state who has not appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate and caused such appointment to be filed with the court;

(e) a corporation not authorized to act as a fiduciary, guardian, or limited guardian in the state;

(f) a person whom the court finds unsuitable.

(2) The professional guardian certification requirements required under this section shall not apply to a testamentary guardian appointed under RCW 11.88.080.

(3) If a guardian or limited guardian is not a certified professional guardian or financial institution authorized under this section, the guardian or limited guardian shall complete any standardized training video or web cast for lay guardians made available by the administrative office of the courts and the superior court where the petition is filed unless granted a waiver by the court under RCW 11.92.043 or 11.92.040. The training video or web cast must be provided at no cost to the guardian or limited guardian.

(a) If a petitioner requests the appointment of a specific individual to act as a guardian or limited guardian, the petition for guardianship or limited guardianship shall include evidence of the successful completion of the required training video or web cast by the proposed guardian or limited guardian. The superior court may defer the completion of the training requirement to a date no later than ninety days after appointment if the petitioner requests expedited appointment due to emergent circumstances.

(b) If no person is identified to be appointed guardian or limited guardian at the time the petition is filed, then the court shall require the completion of the required training video or web cast by a date no later than ninety days after the appointment.

Sec. 2. RCW 11.88.030 and 2009 c 521 s 36 are each amended to read as follows:

(1) Any person or entity may petition for the appointment of a qualified person, (~~trust company, national bank, or nonprofit corporation~~) certified professional guardian, or financial institution authorized in RCW 11.88.020 as the guardian or limited guardian of an incapacitated person. No liability for filing a petition for guardianship or limited guardianship shall attach to a petitioner acting in good faith and upon reasonable basis. A petition for guardianship or limited guardianship shall state:

(a) The name, age, residence, and post office address of the alleged incapacitated person;

(b) The nature of the alleged incapacity in accordance with RCW 11.88.010;

(c) The approximate value and description of property, including any compensation, pension, insurance, or allowance, to which the alleged incapacitated person may be entitled;

(d) Whether there is, in any state, a guardian or limited guardian, or pending guardianship action for the person or estate of the alleged incapacitated person;

(e) The residence and post office address of the person whom petitioner asks to be appointed guardian or limited guardian;

(f) The names and addresses, and nature of the relationship, so far as known or can be reasonably ascertained, of the persons most closely related by blood, marriage, or state registered domestic partnership to the alleged incapacitated person;

(g) The name and address of the person or facility having the care and custody of the alleged incapacitated person;

(h) The reason why the appointment of a guardian or limited guardian is sought and the interest of the petitioner in the appointment, and whether the appointment is sought as guardian or limited guardian of the person, the estate, or both;

(i) A description of any alternate arrangements previously made by the alleged incapacitated person, such as trusts or powers of attorney, including identifying any guardianship nominations contained in a power of attorney, and why a guardianship is nevertheless necessary;

(j) The nature and degree of the alleged incapacity and the specific areas of protection and assistance requested and the limitation of rights requested to be included in the court's order of appointment;

(k) The requested term of the limited guardianship to be included in the court's order of appointment; and

(l) Whether the petitioner is proposing a specific individual to act as guardian ad litem and, if so, the individual's knowledge of or relationship to any of the parties, and why the individual is proposed.

(2) The petition shall include evidence of successful completion of any training required under RCW 11.88.020 by the proposed guardian or limited guardian unless the petitioner requests expedited appointment due to emergent circumstances.

~~((2))~~ (3)(a) The attorney general may petition for the appointment of a guardian or limited guardian in any case in which there is cause to believe that a guardianship is necessary and no private party is able and willing to petition.

(b) Prepayment of a filing fee shall not be required in any guardianship or limited guardianship brought by the attorney general. Payment of the filing fee shall be ordered from the estate of the incapacitated person at the hearing on the merits of the petition, unless in the judgment of the court, such payment would impose a hardship upon the incapacitated person, in which case the filing shall be waived.

~~((3))~~ (4) No filing fee shall be charged by the court for filing either a petition for guardianship or a petition for limited guardianship if the petition alleges that the alleged incapacitated person has total assets of a value of less than three thousand dollars.

~~((4))~~ (5)(a) Notice that a guardianship proceeding has been commenced shall be personally served upon the alleged incapacitated person and the guardian ad litem along with a copy of the petition for appointment of a guardian. Such notice shall be served not more than five court days after the petition has been filed.

(b) Notice under this subsection shall include a clear and easily readable statement of the legal rights of the alleged incapacitated person that could be restricted or transferred to a guardian by a guardianship order as well as the right to counsel of choice and to a jury trial on the issue of incapacity. Such notice shall be in substantially the following form and shall be in capital letters, double-spaced, and in a type size not smaller than ten-point type:

IMPORTANT NOTICE PLEASE READ
CAREFULLY

A PETITION TO HAVE A GUARDIAN APPOINTED FOR YOU HAS BEEN FILED IN THE COUNTY SUPERIOR COURT BY IF A GUARDIAN IS APPOINTED, YOU COULD LOSE ONE OR MORE OF THE FOLLOWING RIGHTS:

- (1) TO MARRY, DIVORCE, OR ENTER INTO OR END A STATE REGISTERED DOMESTIC PARTNERSHIP;
- (2) TO VOTE OR HOLD AN ELECTED OFFICE;
- (3) TO ENTER INTO A CONTRACT OR MAKE OR REVOKE A WILL;
- (4) TO APPOINT SOMEONE TO ACT ON YOUR BEHALF;
- (5) TO SUE AND BE SUED OTHER THAN THROUGH A GUARDIAN;
- (6) TO POSSESS A LICENSE TO DRIVE;
- (7) TO BUY, SELL, OWN, MORTGAGE, OR LEASE PROPERTY;
- (8) TO CONSENT TO OR REFUSE MEDICAL TREATMENT;
- (9) TO DECIDE WHO SHALL PROVIDE CARE AND ASSISTANCE;
- (10) TO MAKE DECISIONS REGARDING SOCIAL ASPECTS OF YOUR LIFE.

UNDER THE LAW, YOU HAVE CERTAIN RIGHTS.

YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER OF YOUR OWN CHOOSING. THE COURT WILL APPOINT A LAWYER TO REPRESENT YOU IF YOU ARE UNABLE TO PAY OR PAYMENT WOULD RESULT IN A SUBSTANTIAL HARDSHIP TO YOU.

YOU HAVE THE RIGHT TO ASK FOR A JURY TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN TO HELP YOU.

YOU HAVE THE RIGHT TO BE PRESENT IN COURT AND TESTIFY WHEN THE HEARING IS HELD TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN. IF A GUARDIAN AD LITEM IS APPOINTED, YOU HAVE THE RIGHT TO REQUEST THE COURT TO REPLACE THAT PERSON.

~~((5))~~ (6) All petitions filed under the provisions of this section shall be heard within sixty days unless an extension of time is requested by a party or the guardian ad litem within such sixty day period and granted for good cause shown. If an extension is granted, the court shall set a new hearing date.

Sec. 3. RCW 11.92.043 and 1991 c 289 s 11 are each amended to read as follows:

It shall be the duty of the guardian or limited guardian of the person:

(1) To file within three months after appointment a personal care plan for the incapacitated person which shall include (a) an assessment of the incapacitated person's physical, mental, and emotional needs and of such person's ability to perform or assist in activities of daily living, and (b) the guardian's specific plan for meeting the identified and emerging personal care needs of the incapacitated person.

(2) To file annually or, where a guardian of the estate has been appointed, at the time an account is required to be filed under RCW 11.92.040, a report on the status of the incapacitated person, which shall include:

- (a) The address and name of the incapacitated person and all residential changes during the period;
- (b) The services or programs which the incapacitated person receives;
- (c) The medical status of the incapacitated person;
- (d) The mental status of the incapacitated person;
- (e) Changes in the functional abilities of the incapacitated person;
- (f) Activities of the guardian for the period;
- (g) Any recommended changes in the scope of the authority of the guardian;
- (h) The identity of any professionals who have assisted the incapacitated person during the period;
- (i) Evidence of the guardian or limited guardian's successful completion of any standardized training video or web cast for guardians or limited guardians made available by the administrative office of the courts and the superior court when the guardian or limited guardian: (A) Was appointed prior to the effective date of this section; (B) is not a certified professional guardian or financial institution authorized under RCW 11.88.020; and (C) has not previously completed the requirements of RCW 11.88.020(3). The training video or web cast must be provided at no cost to the guardian or limited guardian.

(ii) The superior court may, upon (A) petition by the guardian or limited guardian; or (B) any other method as provided by local court rule:

(I) For good cause, waive this requirement for guardians appointed prior to the effective date of this section. Good cause shall require evidence that the guardian already possesses the requisite knowledge to serve as a guardian without completing the training. When determining whether there is good cause to waive the training requirement, the court shall consider, among other facts, the length of time the guardian has been serving the incapacitated person; whether the guardian has timely filed all required reports with the court; whether the guardian is monitored by other state or local agencies; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the guardian; or

(II) Extend the time period for completion of the training requirement for ninety days; and

(j) Evidence of the guardian or limited guardian's successful completion of any additional or updated training video or web cast offered by the administrative office of the courts and the superior court as is required at the discretion of the superior court unless the guardian or limited guardian is a certified professional guardian or financial institution authorized under RCW 11.88.020. The training video or web cast must be provided at no cost to the guardian or limited guardian.

(3) To report to the court within thirty days any substantial change in the incapacitated person's condition, or any changes in residence of the incapacitated person.

(4) Consistent with the powers granted by the court, to care for and maintain the incapacitated person in the setting least restrictive to the incapacitated person's freedom and appropriate to the incapacitated person's personal care needs, assert the incapacitated person's rights and best interests, and if the incapacitated person is a minor or where otherwise appropriate, to see that the incapacitated person receives appropriate training and education and that the incapacitated person has the opportunity to learn a trade, occupation, or profession.

(5) Consistent with RCW 7.70.065, to provide timely, informed consent for health care of the incapacitated person, except in the case of a limited guardian where such power is not expressly provided for in the order of appointment or subsequent modifying order as provided in RCW 11.88.125 as now or hereafter amended, the standby guardian or standby limited guardian may provide timely, informed consent to necessary medical procedures if the guardian or limited guardian cannot be located within four hours after the need for such consent arises. No guardian, limited guardian, or standby guardian may involuntarily commit for mental health treatment, observation, or evaluation an alleged incapacitated person who is unable or unwilling to give informed consent to such commitment unless the procedures for involuntary commitment set forth in chapter 71.05 or 72.23 RCW are followed. Nothing in this section shall be construed to allow a guardian, limited guardian, or standby guardian to consent to:

- (a) Therapy or other procedure which induces convulsion;
- (b) Surgery solely for the purpose of psychosurgery;
- (c) Other psychiatric or mental health procedures that restrict physical freedom of movement, or the rights set forth in RCW ~~((71.05.370))~~ 71.05.217.

A guardian, limited guardian, or standby guardian who believes these procedures are necessary for the proper care and maintenance of the incapacitated person shall petition the court for an order unless the court has previously approved the procedure within the past thirty days. The court may order the procedure only after an attorney is appointed in accordance with RCW 11.88.045 if no attorney has previously appeared, notice is given, and a hearing is held in accordance with RCW 11.88.040.

Sec. 4. RCW 11.88.095 and 1995 c 297 s 5 are each amended to read as follows:

(1) In determining the disposition of a petition for guardianship, the court's order shall be based upon findings as to the capacities, condition, and needs of the alleged incapacitated person, and shall not be based solely upon agreements made by the parties.

(2) Every order appointing a full or limited guardian of the person or estate shall include:

- (a) Findings as to the capacities, condition, and needs of the alleged incapacitated person;
- (b) The amount of the bond, if any, or a bond review period;
- (c) ~~(When the next report of the guardian is due;~~
~~(d))~~ The date the account or report shall be filed. The date of filing an account or report shall be within ninety days after the anniversary date of the appointment;

11.88.040 as now or hereafter amended, seeking an extension of such term.

Guardian

(2) TERMINATION OF GUARDIANSHIP FOR A MINOR BY DECLARATION OF COMPLETION. A guardianship for the benefit of a minor may be terminated upon the minor's attainment of legal age, as defined in RCW 26.28.010 as now or hereafter amended, by the guardian filing a declaration that states:

- (a) The date the minor attained legal age;
 - (b) That the guardian has paid all of the minor's funds in the guardian's possession to the minor, who has signed a receipt for the funds, and that the receipt has been filed with the court;
 - (c) That the guardian has completed the administration of the minor's estate and the guardianship is ready to be closed; and
 - (d) The amount of fees paid or to be paid to each of the following:
 - (i) The guardian, (ii) lawyer or lawyers, (iii) accountant or accountants; and that the guardian believes the fees are reasonable and does not intend to obtain court approval of the amount of the fees or to submit a guardianship accounting to the court for approval.
- Subject to the requirement of notice as provided in this section, unless the minor petitions the court either for an order requiring the guardian to obtain court approval of the amount of fees paid or to be paid to the guardian, lawyers, or accountants, or for an order requiring an accounting, or both, within thirty days from the filing of the declaration of completion of guardianship, the guardian shall be automatically discharged without further order of the court. The guardian's powers will cease thirty days after filing the declaration of completion of guardianship. The declaration of completion of guardianship shall, at the time, be the equivalent of an entry of a decree terminating the guardianship, distributing the assets, and discharging the guardian for all legal intents and purposes.

Within five days of the date of filing the declaration of completion of guardianship, the guardian or the guardian's lawyer shall mail a copy of the declaration of completion to the minor together with a notice that shall be substantially as follows:

CAPTION OF CASE	NOTICE OF FILING A DECLARATION OF COMPLETION OF GUARDIANSHIP
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NOTICE IS GIVEN that the attached Declaration of Completion of Guardianship was filed by the undersigned in the above-entitled court on the day of, 19 . . . ; unless you file a petition in the above-entitled court requesting the court to review the reasonableness of the fees, or for an accounting, or both, and serve a copy of the petition on the guardian or the guardian's lawyer, within thirty days after the filing date, the amount of fees paid or to be paid will be deemed reasonable, the acts of the guardian will be deemed approved, the guardian will be automatically discharged without further order of the court and the Declaration of Completion of Guardianship will be final and deemed the equivalent of an order terminating the guardianship, discharging the guardian and decreeing the distribution of the guardianship assets.

If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of your petition, and you will be notified of the time and place of the hearing, by mail, or by personal service, not less than ten days before the hearing on the petition.

DATED this day of, 19 . . .

If the minor, after reaching legal age, waives in writing the notice required by this section, the guardian will be automatically discharged without further order of the court and the declaration of completion of guardianship will be effective as an order terminating the guardianship without an accounting upon filing the declaration. If the guardian has been required to furnish a bond, and a declaration of completion of guardianship is filed according to this section, any bond furnished by the guardian shall be automatically discharged upon the discharge of the guardian.

(3) TERMINATION ON COURT ORDER. A guardianship or limited guardianship may be terminated by court order after such notice as the court may require if the guardianship or limited guardianship is no longer necessary.

The guardian or limited guardian shall, within ~~(thirty)~~ ninety days of the date of termination of the guardianship, unless the court orders a different deadline for good cause, prepare and file with the court a final verified account of administration. The final verified account of administration shall contain the same information as required for (a) an intermediate verified account of administration of the estate under RCW 11.92.040(2) and (b) an intermediate personal care status report under RCW 11.92.043(2).

(4) EFFECT OF TERMINATION. When a guardianship or limited guardianship terminates other than by the death of the incapacitated person, the powers of the guardian or limited guardian cease, except that a guardian or limited guardian of the estate may make disbursements for claims that are or may be allowed by the court, for liabilities already properly incurred for the estate or for the incapacitated person, and for expenses of administration. When a guardianship or limited guardianship terminates by death of the incapacitated person, the guardian or limited guardian of the estate may proceed under RCW 11.88.150 as now or hereafter amended, but the rights of all creditors against the incapacitated person's estate shall be determined by the law of decedents' estates.

Sec. 8. RCW 11.92.053 and 1995 c 297 s 7 are each amended to read as follows:

Within ninety days, unless the court orders a different deadline for good cause, after the termination of a guardianship for any reason, the guardian or limited guardian of the estate shall petition the court for an order settling his or her account as filed in accordance with RCW 11.92.040(2) with regard to any receipts, expenditures, and investments made and acts done by the guardian to the date of the termination. Upon the filing of the petition, the court shall set a date for the hearing of the petition after notice has been given in accordance with RCW 11.88.040. Any person interested may file objections to the petition or may appear at the time and place fixed for the hearing thereof and present his or her objections thereto. The court may take such testimony as it deems proper or necessary to determine whether an order settling the account should be issued and the transactions of the guardian be approved, and the court may appoint a guardian ad litem to review the report.

At the hearing on the petition of the guardian or limited guardian, if the court is satisfied that the actions of the guardian or limited guardian have been proper, and that the guardian has in all respects discharged his or her trust with relation to the receipts, expenditures, investments, and acts, then, in such event, the court shall enter an order approving the account, and the order shall be final and binding upon the incapacitated person, subject only to the right of appeal as upon a final order. However, within one year after the incompetent attains his or her majority any such account may be challenged by the incapacitated person on the ground of fraud.

Sec. 9. RCW 11.92.040 and 1991 c 289 s 10 are each amended to read as follows:

It shall be the duty of the guardian or limited guardian of an estate:

(1) To file within three months after the guardian's appointment a verified inventory of all the property of the incapacitated person which comes into the guardian's possession or knowledge, including a statement of all encumbrances, liens, and other secured charges on any item;

(2) To file annually, within ninety days after the anniversary date of the guardian's or limited guardian's appointment, and also within ~~((thirty))~~ ninety days after termination of the appointment, unless the court for good cause orders a different deadline to file following termination, a written verified account of the administration for court approval, which account shall contain at least the following information:

(a) Identification of property of the guardianship estate as of the date of the last account or, in the case of the initial account, as of the date of inventory;

(b) Identification of all additional property received into the guardianship, including income by source;

(c) Identification of all expenditures made during the account period by major categories;

(d) Any adjustments to the guardianship estate required to establish its present fair market value, including gains or losses on sale or other disposition and any mortgages, deeds of trust or other encumbrances against the guardianship estate; and

(e) Identification of all property held in the guardianship estate as of the date of account, the assessed value of any real property and the guardian's estimate of the present fair market values of other property (including the basis on which such estimate is made), and the total net fair market value of the guardianship estate. In addition, immediately following such statement of present fair market value, the account shall set forth a statement of current amount of the guardian's bond and any other court-ordered protection for the security of the guardianship assets;

(3) The court in its discretion may allow reports at intervals of up to thirty-six months for estates with assets (exclusive of real property) having a value of not more than twice the homestead exemption. Notwithstanding contrary provisions of this section, the guardian or limited guardian of an estate need not file an annual report with the court if the funds of the guardianship are held for the benefit of a minor in a blocked account unless the guardian requests a withdrawal from such account, in which case the guardian shall provide a written verified account of the administration of the guardianship estate along with the guardian's petition for the withdrawal. The guardian or limited guardian shall report any substantial change in income or assets of the guardianship estate within thirty days of the occurrence of the change. A hearing shall be scheduled for court review and determination of provision for increased bond or other provision in accordance with RCW 11.88.100;

(4) All court orders approving accounts or reports filed by a guardian or limited guardian must contain a guardianship summary placed directly below the case caption or on a separate cover page in the following form, or a substantially similar form, containing the following information:

GUARDIANSHIP SUMMARY

Date Guardian Appointed:

Due Date for Report and

Accounting:

Date of Next Review:

Letters Expire On:

Bond Amount: \$

Restricted Account:

Agreements Required:

<u>Incapacitated Person (IP)</u>	<u>Guardian of:</u> <input type="checkbox"/> Estate <input type="checkbox"/> Person
<u>Name:</u>	<u>Name:</u>
<u>Address:</u>	<u>Address:</u>
<u>Phone:</u>	<u>Phone:</u>
<u>Facsimile:</u>	<u>Facsimile:</u>

<u>Standby Guardian</u>	<u>Address</u>	<u>Relation to IP</u>

<u>Interested Parties</u>	<u>Address</u>	<u>Relation to IP</u>

(5) To protect and preserve the guardianship estate, to apply it as provided in this chapter, to account for it faithfully, to perform all of the duties required by law, and at the termination of the guardianship or limited guardianship, to deliver the assets of the incapacitated person to the persons entitled thereto. Except as provided to the contrary herein, the court may authorize a guardian or limited guardian to do anything that a trustee can do under the provisions of RCW 11.98.070 for a period not exceeding one year from the date of the order or for a period corresponding to the interval in which the guardian's or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer;

~~((6))~~ (6) To invest and reinvest the property of the incapacitated person in accordance with the rules applicable to investment of trust estates by trustees as provided in chapter 11.100 RCW, except that:

(a) No investments shall be made without prior order of the court in any property other than unconditional interest bearing obligations of this state or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States, and in share accounts or deposits which are insured by an agency of the United States government. Such prior order of the court may authorize specific investments, or, in the discretion of the court, may authorize the guardian or limited guardian to invest and reinvest as provided in chapter 11.100 RCW without further order of the court;

(b) If it is for the best interests of the incapacitated person that a specific property be used by the incapacitated person rather than sold and the proceeds invested, the court may so order;

~~((7))~~ (7) To apply to the court no later than the filing of the inventory for an order authorizing disbursements on behalf of the incapacitated person ~~((= PROVIDED, HOWEVER, That))~~. However,

the guardian or limited guardian of the estate, or the person, department, bureau, agency, or charitable organization having the care and custody of an incapacitated person, may apply to the court for an order directing the guardian or limited guardian of the estate to pay to the person, department, bureau, agency, or charitable organization having the care and custody of an incapacitated person, or if the guardian or limited guardian of the estate has the care and custody of the incapacitated person, directing the guardian or limited guardian of the estate to apply an amount weekly, monthly, quarterly, semi-annually, or annually, as the court may direct, to be expended in the care, maintenance, and education of the incapacitated person and of his or her dependents. In proper cases, the court may order payment of amounts directly to the incapacitated person for his or her maintenance or incidental expenses. The amounts authorized under this section may be decreased or increased from time to time by direction of the court. If payments are made to another under an order of the court, the guardian or limited guardian of the estate is not bound to see to the application thereof;

(8) To provide evidence of the guardian or limited guardian's successful completion of any standardized training video or web cast for guardians or limited guardians made available by the administrative office of the courts and the superior court when the guardian or limited guardian: (a) Was appointed prior to the effective date of this section; (b) is not a certified professional guardian or financial institution authorized under RCW 11.88.020; and (c) has not previously completed the requirements of RCW 11.88.020(3). The training video or web cast must be provided at no cost to the guardian or limited guardian. The superior court may, upon (i) petition by the guardian or limited guardian; or (ii) any other method as provided by local court rule: (A) For good cause, waive this requirement for guardians appointed prior to the effective date of this section. Good cause shall require evidence that the guardian already possesses the requisite knowledge to serve as a guardian without completing the training. When determining whether there is good cause to waive the training requirement, the court shall consider, among other facts, the length of time the guardian has been serving the incapacitated person; whether the guardian has timely filed all required reports with the court; whether the guardian is monitored by other state or local agencies; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the guardian; or (B) extend the time period for completion of the training requirement for ninety days; and

(9) To provide evidence of the guardian or limited guardian's successful completion of any additional or updated training video or web cast offered by the administrative office of the courts and the superior court as is required at the discretion of the superior court unless the guardian or limited guardian is a certified professional guardian or financial institution authorized under RCW 11.88.020. The training video or web cast must be provided at no cost to the guardian or limited guardian.

Sec. 10. RCW 11.92.050 and 1995 c 297 s 6 are each amended to read as follows:

(1) Upon the filing of any intermediate guardianship or limited guardianship account or report required by statute, or of any intermediate account or report required by court rule or order, the ~~((guardian or limited guardian may petition the court for))~~ court shall enter an order settling ((his or her)) the guardianship account or report with regard to any receipts, expenditures, and investments made and acts done by the guardian or limited guardian to the date of the interim report.

(2) Upon such ((petition)) account or report being filed, the court may, in its discretion, ((where the size or condition of the estate warrants it)) set a date for the hearing ((of the petition)) and require the service of the ((petition)) guardian's report or account and a notice of the hearing as provided in RCW 11.88.040 as now or hereafter amended or as specified by the court; and, in the event a hearing is

ordered, the court may also appoint a guardian ad litem, whose duty it shall be to investigate the account or report of the guardian or limited guardian of the estate and to advise the court thereon at the hearing, in writing.

(3) At the hearing on or upon the court's review of the account or report of the guardian or limited guardian, if the court is satisfied that the actions of the guardian or limited guardian have been proper, and that the guardian or limited guardian has in all respects discharged his or her trust with relation to the receipts, expenditures, investments, and acts, then, in such event, the court shall enter an order approving such account or report.

(4) If a guardian or limited guardian fails to file the account or report or fails to appear at the hearing, the court shall enter an order for one or more of the following actions:

(a) Entering an order to show cause and requiring the guardian to appear at a show cause hearing. At the hearing the court may take action to protect the incapacitated person, including, but not limited to, removing the guardian or limited guardian pursuant to RCW 11.88.120 and appointing a successor;

(b) Directing the clerk to extend the letters, for good cause shown, for no more than ninety days, to permit the guardian to file his or her account or report;

(c) Requiring the completion of any approved guardianship training made available to the guardian by the court;

(d) Appointing a guardian ad litem subject to the requirements in RCW 11.88.090;

(e) Providing other and further relief the court deems just and equitable.

(5) If the court has appointed a guardian ad litem, the order shall be final and binding upon the incapacitated person, subject only to the right of appeal as upon a final order; provided that at the time of final account of said guardian or limited guardian or within one year after the incapacitated person attains his or her majority any such interim account may be challenged by the incapacitated person on the ground of fraud.

~~((2))~~ (6) The procedure established in ((subsection (1) of)) this section for financial accounts by guardians or limited guardians of the estate shall apply to personal care reports filed by guardians or limited guardians of the person under RCW 11.92.043.

Sec. 11. RCW 36.18.016 and 2009 c 417 s 2 are each amended to read as follows:

(1) Revenue collected under this section is not subject to division under RCW 36.18.025 or 27.24.070.

(2)(a) For the filing of a petition for modification of a decree of dissolution or paternity, within the same case as the original action, and any party filing a counterclaim, cross-claim, or third-party claim in any such action, a fee of thirty-six dollars must be paid.

(b) The party filing the first or initial petition for dissolution, legal separation, or declaration concerning the validity of marriage shall pay, at the time and in addition to the filing fee required under RCW 36.18.020, a fee of thirty dollars. The clerk of the superior court shall transmit monthly twenty-four dollars of the thirty-dollar fee collected under this subsection to the state treasury for deposit in the domestic violence prevention account. The remaining six dollars shall be retained by the county for the purpose of supporting community-based services within the county for victims of domestic violence, except for five percent of the six dollars, which may be retained by the court for administrative purposes.

(3)(a) The party making a demand for a jury of six in a civil action shall pay, at the time, a fee of one hundred twenty-five dollars; if the demand is for a jury of twelve, a fee of two hundred fifty dollars. If, after the party demands a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional one hundred twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(b) Upon conviction in criminal cases a jury demand charge of one hundred twenty-five dollars for a jury of six, or two hundred fifty dollars for a jury of twelve may be imposed as costs under RCW 10.46.190.

(4) For preparing a certified copy of an instrument on file or of record in the clerk's office, for the first page or portion of the first page, a fee of five dollars, and for each additional page or portion of a page, a fee of one dollar must be charged. For authenticating or exemplifying an instrument, a fee of two dollars for each additional seal affixed must be charged. For preparing a copy of an instrument on file or of record in the clerk's office without a seal, a fee of fifty cents per page must be charged. When copying a document without a seal or file that is in an electronic format, a fee of twenty-five cents per page must be charged. For copies made on a compact disc, an additional fee of twenty dollars for each compact disc must be charged.

(5) For executing a certificate, with or without a seal, a fee of two dollars must be charged.

(6) For a garnishee defendant named in an affidavit for garnishment and for a writ of attachment, a fee of twenty dollars must be charged.

(7) For filing a supplemental proceeding, a fee of twenty dollars must be charged.

(8) For approving a bond, including justification on the bond, in other than civil actions and probate proceedings, a fee of two dollars must be charged.

(9) For the issuance of a certificate of qualification and a certified copy of letters of administration, letters testamentary, or letters of guardianship, there must be a fee of five dollars.

(10) For the preparation of a passport application, the clerk may collect an execution fee as authorized by the federal government.

(11) For clerk's services such as performing historical searches, compiling statistical reports, and conducting exceptional record searches, the clerk may collect a fee not to exceed thirty dollars per hour.

(12) For processing ex parte orders, the clerk may collect a fee of thirty dollars.

(13) For duplicated recordings of court's proceedings there must be a fee of ten dollars for each audio tape and twenty-five dollars for each video tape or other electronic storage medium.

(14) For registration of land titles, Torrens Act, under RCW 65.12.780, a fee of twenty dollars must be charged.

(15) For the issuance of extension of judgment under RCW 6.17.020 and chapter 9.94A RCW, a fee of two hundred dollars must be charged. When the extension of judgment is at the request of the clerk, the two hundred dollar charge may be imposed as court costs under RCW 10.46.190.

(16) A facilitator surcharge of up to twenty dollars must be charged as authorized under RCW 26.12.240.

(17) For filing a water rights statement under RCW 90.03.180, a fee of twenty-five dollars must be charged.

(18) For filing a claim of frivolous lien under RCW 60.04.081, a fee of thirty-five dollars must be charged.

(19) For preparation of a change of venue, a fee of twenty dollars must be charged by the originating court in addition to the per page charges in subsection (4) of this section.

(20) A service fee of five dollars for the first page and one dollar for each additional page must be charged for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

(21) For preparation of clerk's papers under RAP 9.7, a fee of fifty cents per page must be charged.

(22) For copies and reports produced at the local level as permitted by RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(23) Investment service charge and earnings under RCW 36.48.090 must be charged.

(24) Costs for nonstatutory services rendered by clerk by authority of local ordinance or policy must be charged.

(25) For filing a request for mandatory arbitration, a filing fee may be assessed against the party filing a statement of arbitrability not to exceed two hundred twenty dollars as established by authority of local ordinance. This charge shall be used solely to offset the cost of the mandatory arbitration program.

(26) For filing a request for trial de novo of an arbitration award, a fee not to exceed two hundred fifty dollars as established by authority of local ordinance must be charged.

(27) A public agency may not charge a fee to a law enforcement agency, for preparation, copying, or mailing of certified copies of the judgment and sentence, information, affidavit of probable cause, and/or the notice of requirement to register, of a sex offender convicted in a Washington court, when such records are necessary for risk assessment, preparation of a case for failure to register, or maintenance of a sex offender's registration file.

(28) For the filing of a will or codicil under the provisions of chapter 11.12 RCW, a fee of twenty dollars must be charged.

(29) For the collection of unpaid legal financial obligations, the clerk may impose an annual fee of up to one hundred dollars, pursuant to RCW 9.94A.780.

(30) A surcharge of up to twenty dollars may be charged in dissolution and legal separation actions as authorized by RCW 26.12.260.

(31) For the filing of accounts required under RCW 11.92.040(2), a fee must be charged to the estate of the incapacitated person. The amount of the fee is determined by the total net fair market value of the guardianship estate identified pursuant to RCW 11.92.040(2)(e). If the total fair market value of the guardianship estate is less than or equal to one hundred thousand dollars, a filing fee is not required. If the superior court finds that payment of the filing fee would result in substantial hardship upon the incapacitated person, the superior court may waive or reduce the filing fee. The amount of the fee is as follows:

(a) Seventy-five dollars for guardianship estates with a total net fair market value greater than one hundred thousand dollars but not exceeding five hundred thousand dollars;

(b) One hundred fifty dollars for guardianship estates with a total net fair market value greater than five hundred thousand dollars but not exceeding one million dollars; or

(c) Two hundred fifty dollars for guardianship estates with a total net fair market value greater than one million dollars.

(32) The revenue to counties from the fees established in this section shall be deemed to be complete reimbursement from the state for the state's share of benefits paid to the superior court judges of the state prior to July 24, 2005, and no claim shall lie against the state for such benefits."

On page 1, line 3 of the title, after "force;" strike the remainder of the title and insert "amending RCW 11.88.020, 11.88.030, 11.92.043, 11.88.095, 11.88.125, 11.88.140, 11.92.053, 11.92.040, 11.92.050, and 36.18.016; and adding a new section to chapter 11.88 RCW."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1053 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 20, 2011

Mr. Speaker:

The Senate refuses to concur in the House amendment to SUBSTITUTE SENATE BILL NO. 5531 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment. The rules were suspended and SUBSTITUTE SENATE BILL NO. 5531 was returned to second reading for the purpose of amendment.

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

SECOND READING

SUBSTITUTE SENATE BILL NO. 5531, by Senate Committee on Human Services & Corrections (originally sponsored by Senators King, Prentice, Keiser and Shin)

Reimbursing counties for providing judicial services involving mental health commitments.

Representative Pedersen moved the adoption of amendment (672).

0)

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that counties that host evaluation and treatment beds incur costs by providing judicial services associated with civil commitments under chapters 71.05 and 71.34 RCW. Because evaluation and treatment beds are not evenly distributed across the state, these commitments frequently occur in a different county from the county in which the person was originally detained. The intent of this act is to create a process for the state to reimburse counties through the regional support networks for the counties' reasonable direct costs incurred in providing these judicial services, and to prevent the burden of these costs from falling disproportionately on the counties or regional support networks in which the commitments are most likely to occur. The legislature recognizes that the costs of judicial services may vary across the state based on different factors and conditions.

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

(1) A county may apply to its regional support network on a quarterly basis for reimbursement of its direct costs in providing judicial services for civil commitment cases under this chapter and chapter 71.34 RCW. The regional support network shall in turn be entitled to reimbursement from the regional support network that serves the county of residence of the individual who is the subject of the civil commitment case. Reimbursements under this section shall be paid out of the regional support network's nonmedicaid appropriation.

(2) Reimbursement for judicial services shall be provided per civil commitment case at a rate to be determined based on an independent assessment of the county's actual direct costs. This assessment must be based on an average of the expenditures for judicial services within the county over the past three years. In the event that a baseline cannot be established because there is no significant history of similar cases within the county, the reimbursement rate shall be equal to eighty percent of the median

reimbursement rate of counties included in the independent assessment.

(3) For the purposes of this section:

(a) "Civil commitment case" includes all judicial hearings related to a single episode of hospitalization, or less restrictive alternative detention in lieu of hospitalization, except that the filing of a petition for a one hundred eighty-day commitment under this chapter or a petition for a successive one hundred eighty-day commitment under chapter 71.34 RCW shall be considered to be a new case regardless of whether there has been a break in detention. "Civil commitment case" does not include the filing of a petition for a one hundred eighty-day commitment under this chapter on behalf of a patient at a state psychiatric hospital.

(b) "Judicial services" means a county's reasonable direct costs in providing prosecutor services, assigned counsel and defense services, court services, and court clerk services for civil commitment cases under this chapter and chapter 71.34 RCW.

(4) To the extent that resources have shared purpose, the regional support network may only reimburse counties to the extent such resources are necessary for and devoted to judicial services as described in this section.

(5) No filing fee may be charged or collected for any civil commitment case subject to reimbursement under this section.

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

(1) The joint legislative audit and review committee shall conduct an independent assessment of the direct costs of providing judicial services under this chapter and chapter 71.34 RCW as defined in section 2 of this act. The assessment shall include a review and analysis of the reasons for differences in costs among counties. The assessment shall be conducted for any county in which more than twenty civil commitment cases were conducted during the year prior to the study. The assessment must be completed by June 1, 2012.

(2) The administrative office of the courts and the department shall provide the joint legislative audit and review committee with assistance and data required to complete the assessment.

(3) The joint legislative audit and review committee shall present recommendations as to methods for updating the costs identified in the assessment to reflect changes over time.

NEW SECTION. Sec. 4. A new section is added to chapter 71.34 RCW to read as follows:

A county may apply to its regional support network for reimbursement of its direct costs in providing judicial services for civil commitment cases under this chapter, as provided in section 2 of this act.

Sec. 5. RCW 71.05.110 and 1997 c 112 s 7 are each amended to read as follows:

Attorneys appointed for persons pursuant to this chapter shall be compensated for their services as follows: (1) The person for whom an attorney is appointed shall, if he or she is financially able pursuant to standards as to financial capability and indigency set by the superior court of the county in which the proceeding is held, bear the costs of such legal services; (2) if such person is indigent pursuant to such standards, the ~~((costs of such services shall be borne by))~~ regional support network shall reimburse the county in which the proceeding is held ~~((, subject however to the responsibility for costs provided in RCW 71.05.320(2)))~~ for the direct costs of such legal services, as provided in section 2 of this act.

Sec. 6. RCW 71.24.160 and 2001 c 323 s 15 are each amended to read as follows:

The regional support networks shall make satisfactory showing to the secretary that state funds shall in no case be used to replace local funds from any source being used to finance mental health services prior to January 1, 1990. Maintenance of effort funds devoted to judicial services related to involuntary commitment reimbursed under

section 2 of this act must be expended for other purposes that further treatment for mental health and chemical dependency disorders.

Sec. 7. RCW 71.34.300 and 1985 c 354 s 14 are each amended to read as follows:

(1) The county or combination of counties is responsible for development and coordination of the evaluation and treatment program for minors, for incorporating the program into the county mental health plan, and for coordination of evaluation and treatment services and resources with the community mental health program required under chapter 71.24 RCW.

(2) The county shall be responsible for maintaining its support of involuntary treatment services for minors at its 1984 level, adjusted for inflation, with the department responsible for additional costs to the county resulting from this chapter. Maintenance of effort funds devoted to judicial services related to involuntary commitment reimbursed under section 2 of this act must be expended for other purposes that further treatment for mental health and chemical dependency disorders.

Sec. 8. RCW 71.34.330 and 1985 c 354 s 23 are each amended to read as follows:

Attorneys appointed for minors under this chapter shall be compensated for their services as follows:

(1) Responsible others shall bear the costs of such legal services if financially able according to standards set by the court of the county in which the proceeding is held.

(2) If all responsible others are indigent as determined by these standards, the ~~((costs of these legal services shall be borne by))~~ regional support network shall reimburse the county in which the proceeding is held for the direct costs of such legal services, as provided in section 2 of this act.

Sec. 9. RCW 71.05.230 and 2009 c 217 s 2 and 2009 c 293 s 3 are each reenacted and amended to read as follows:

A person detained for seventy-two hour evaluation and treatment may be detained for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative to involuntary intensive treatment. ~~((There shall be no fee for filing petitions for fourteen days of involuntary intensive treatment.))~~ A petition may only be filed if the following conditions are met:

(1) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and finds that the condition is caused by mental disorder and either results in a likelihood of serious harm, or results in the detained person being gravely disabled and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The facility providing intensive treatment is certified to provide such treatment by the department; and

(4) The professional staff of the agency or facility or the designated mental health professional has filed a petition for fourteen day involuntary detention or a ninety day less restrictive alternative with the court. The petition must be signed either by:

(a) Two physicians;

(b) One physician and a mental health professional;

(c) Two psychiatric advanced registered nurse practitioners;

(d) One psychiatric advanced registered nurse practitioner and a mental health professional; or

(e) A physician and a psychiatric advanced registered nurse practitioner. The persons signing the petition must have examined the person. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state

specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, or is gravely disabled and shall set forth the less restrictive alternative proposed by the facility; and

(5) A copy of the petition has been served on the detained person, his or her attorney and his or her guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The petition reflects that the person was informed of the loss of firearm rights if involuntarily committed; and

(8) At the conclusion of the initial commitment period, the professional staff of the agency or facility or the designated mental health professional may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment as provided in RCW 71.05.290; and

(9) If the hospital or facility designated to provide outpatient treatment is other than the facility providing involuntary treatment, the outpatient facility so designated has agreed to assume such responsibility.

NEW SECTION. Sec. 10. Except for section 3 of this act, this act takes effect July 1, 2012."

Correct the title.

Representatives Pedersen and Rodne spoke in favor of the adoption of the amendment.

Amendment (672) was adopted.

Representatives Pederson and Rodne spoke in favor of the passage of the bill.

MOTION

On motion of Representative Hinkle, Representatives Crouse and Hope were excused.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5531, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5531 as amended by the House, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Santos, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representatives Crouse and Hope.

SUBSTITUTE SENATE BILL NO. 5531 as amended by the House, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 20, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1046 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 46.12 RCW under the subchapter heading "general provisions" to read as follows:

(1) The application for a quick title of a vehicle must be submitted by the owner or the owner's representative to the department, participating county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vehicle, including make, model, vehicle identification number, type of body, and the odometer reading at the time of delivery of the vehicle, when required;

(b) The name and address of the person who is to be the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party; and

(c) Other information as may be required by the department.

(2) The application for a quick title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under RCW 9A.72.085. The department must keep a copy of the application.

(3) The application for a quick title must be accompanied by:

(a) All fees and taxes due for an application for a certificate of title, including a quick title service fee under section 2 of this act; and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

(4) All applications for quick title must meet the requirements established by the department.

(5) For the purposes of this section, "quick title" means a certificate of title printed at the time of application.

(6) The quick title process authorized under this section may not be used to obtain the first title issued to a vehicle previously designated as a salvage vehicle as defined in RCW 46.04.514.

(7) A subagent may process a quick title under this section only after (a) the department has instituted a process in which blank certificates of title can be inventoried; (b) the county auditor of the county in which the subagent is located has processed quick titles for a minimum of six months; and (c) the county auditor approves a request from a subagent in its county to process quick titles.

NEW SECTION. Sec. 2. A new section is added to chapter 46.17 RCW under the subchapter heading "certificate of title fees" to read as follows:

Before accepting an application for a quick title of a vehicle under section 1 of this act, the department, participating county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a fifty dollar quick title service fee in addition to any other fees and taxes required by law. The quick title service fee must be distributed under section 3 of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 46.68 RCW to read as follows:

(1) The quick title service fee imposed under section 2 of this act must be distributed as follows:

(a) If the fee is paid to the director, the fee must be deposited to the motor vehicle fund established under RCW 46.68.070.

(b) If the fee is paid to the participating county auditor or other agent or subagent appointed by the director, twenty-five dollars must be deposited to the motor vehicle fund established under RCW 46.68.070. The remainder must be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(2) For the purposes of this section, "quick title" has the same meaning as in section 1 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 88.02 RCW under the subchapter heading "certificates of title" to read as follows:

(1) The application for a quick title of a vessel must be made by the owner or the owner's representative to the department, participating county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vessel, including make, model, hull identification number, series, and body;

(b) The name and address of the person who is to be the registered owner of the vessel and, if the vessel is subject to a security interest, the name and address of the secured party; and

(c) Other information as may be required by the department.

(2) The application for a quick title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under RCW 9A.72.085. The department must keep a copy of the application.

(3) The application for a quick title must be accompanied by:

(a) All fees and taxes due for an application for a certificate of title, including a quick title service fee under RCW 88.02.640(1); and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

(4) All applications for quick title must meet the requirements established by the department.

(5) For the purposes of this section, "quick title" means a certificate of title printed at the time of application.

(6) A subagent may process a quick title under this section only after (a) the department has instituted a process in which blank certificates of title can be inventoried; (b) the county auditor of the county in which the subagent is located has processed quick titles for a minimum of six months; and (c) the county auditor approves a request from a subagent in its county to process quick titles.

Sec. 5. RCW 88.02.640 and 2010 c 161 s 1028 are each amended to read as follows:

(1) In addition to any other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director shall charge the following vessel fees:

FEE	AMOUNT	AUTHORITY	DISTRIBUTION
(a) Dealer temporary permit	\$5.00	RCW 88.02.800(2)	General fund
(b) Derelict vessel and invasive species removal	Subsection (3) of this section	Subsections (3) and (4) of this section	Subsection (3) of this section
(c) Duplicate registration	\$1.25	RCW 88.02.590(1)(c)	General fund
(d) Filing	RCW 46.17.005	RCW 46.17.005	RCW 46.68.440
(e) License plate technology	RCW 46.17.015	RCW 46.17.015	RCW 46.68.400

(f) License service	RCW 46.17.025	RCW 46.17.025	RCW 46.68.220
(g) Nonresident vessel permit	\$25.00	RCW 88.02.620(3)	Subsection (6) of this section
(h) <u>Quick title service</u>	<u>\$50.00</u>	<u>Section 4(3) of this act</u>	<u>Subsection (7) of this section</u>
(i) Registration	\$10.50	RCW 88.02.560(2)	General fund
((+)) (j) Replacement decal	\$1.25	RCW 88.02.595(1)(c)	General fund
((+)) (k) Title application	\$5.00	RCW 88.02.515	General fund
((+)) (l) Transfer	\$1.00	RCW 88.02.560(7)	General fund
((+)) (m) Vessel visitor permit	\$30.00	RCW 88.02.610(3)	General fund

(2) The five dollar dealer temporary permit fee required in subsection (1) of this section must be credited to the payment of registration fees at the time application for registration is made.

(3)(a) Until June 30, 2012, the derelict vessel and invasive species removal fee required in subsection (1) of this section is five dollars and must be distributed as follows:

- (i) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in RCW 77.12.879;
- (ii) One dollar must be deposited into the freshwater aquatic algae control account created in RCW 43.21A.667;
- (iii) Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400; and
- (iv) Two dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100.

(b) On and after June 30, 2012, the derelict vessel and invasive species removal fee is two dollars and must be deposited into the derelict vessel removal account created in RCW 79.100.100. If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under subsection (5) of this section reaches one million dollars as of March 1st of any year, the collection of the two dollar derelict vessel and invasive species removal fee must be suspended for the following fiscal year.

(4) Until January 1, 2014, an annual derelict vessel removal surcharge of one dollar must be charged with each vessel registration. The surcharge:

- (a) Is to address the significant backlog of derelict vessels accumulated in Washington state waters that pose a threat to the health and safety of the people and to the environment;
- (b) Is to be used only for the removal of vessels that are less than seventy-five feet in length; and
- (c) Must be deposited into the derelict vessel removal account created in RCW 79.100.100.

(5) The twenty-five dollar nonresident vessel permit fee must be paid by the vessel owner to the department for the cost of providing the identification document by the department. Any moneys remaining from the fee after the payment of costs must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.655.

(6) The thirty dollar vessel visitor permit fee must be distributed as follows:

(a) Five dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100;

(b) The department may keep an amount to cover costs for providing the vessel visitor permit;

(c) Any moneys remaining must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.655; and

(d) Any fees required for licensing agents under RCW 46.17.005 are in addition to any other fee or tax due for the titling and registration of vessels.

(7)(a) The fifty dollar quick title service fee must be distributed as follows:

(i) If the fee is paid to the director, the fee must be deposited to the general fund.

(ii) If the fee is paid to the participating county auditor or other agent or subagent appointed by the director, twenty-five dollars must be deposited to the general fund. The remainder must be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(b) For the purposes of this subsection, "quick title" has the same meaning as in section 4 of this act.

NEW SECTION. Sec. 6. This act applies to quick title transactions processed on and after January 1, 2012.

NEW SECTION. Sec. 7. This act takes effect January 1, 2012."

On page 1, line 1 of the title, after "title;" strike the remainder of the title and insert "amending RCW 88.02.640; adding a new section to chapter 46.12 RCW; adding a new section to chapter 46.17 RCW; adding a new section to chapter 46.68 RCW; adding a new section to chapter 88.02 RCW; creating a new section; 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 SUBSTITUTE HOUSE BILL NO. 1046 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Moeller and Armstrong spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1046, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1046, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 70; Nays, 26; Absent, 0; Excused, 2.

Voting yea: Representatives Anderson, Appleton, Armstrong, Bailey, Billig, Blake, Carlyle, Clibborn, Cody, Condotta, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Harris, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Ladenburg, Liias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Reykdal, Roberts, Rodne, Rolfes, Ross, Ryu, Santos, Seaquist, Sells, Smith, Springer, Stanford, Sullivan, Takko,

Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Ahern, Alexander, Angel, Asay, Buys, Chandler, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Overstreet, Parker, Pearson, Rivers, Schmick, Shea, Short and Taylor.

Excused: Representatives Crouse and Hope.

SUBSTITUTE HOUSE BILL NO. 1046, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 20, 2011

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1128 with the following amendment:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The Washington state legislature has consistently provided national leadership on safe housing and support to foster youth transitioning out of foster care. Since 2006, the legislature has addressed the needs of foster youth aging out of care with medicaid to twenty-one (2007), foster care to twenty-one (2006), the independent youth housing program (2007), and Washington's alignment with the federal fostering connections act (2009). As a result of this national leadership to provide safe and basic housing to youth aging out of foster care, the programs have demonstrated the significant cost benefit to providing safe housing to our youth exiting foster care.

The United States congress passed the fostering connections to success and increasing adoptions act of 2008 in order to give states another financial tool to continue to provide foster care services to dependent youth who turn eighteen years old while in foster care. However, substantially declining revenues have resulted in markedly decreased funds for states to use to meet the federal requirements necessary to help these youth. Current fiscal realities require that the scope of programs must be narrowed.

The Washington state legislature intends to serve, within the resources available, the maximum number of foster youth who are legally dependent on the state and who reach the age of eighteen while still in foster care. The legislature intends to provide these youth continued foster care services to support basic and healthy transition into adulthood. The legislature recognizes the extremely poor outcomes of unsupported foster youth aging out of the foster care system and is committed to ensuring that those foster youth who engage in positive, age-appropriate activities receive support. It is the intent of the legislature to fully engage in the fostering connections act by providing support, including extended court supervision to foster youth pursuing a high school diploma or GED to age twenty-one with the goal of increasing support to all children up to age twenty-one who are eligible under the federal fostering connections to success act as resources become available.

Sec. 2. RCW 13.04.011 and 2010 c 150 s 4 are each amended to read as follows:

For purposes of this title:

(1) "Adjudication" has the same meaning as "conviction" in RCW 9.94A.030, but only for the purposes of sentencing under chapter 9.94A RCW;

(2) Except as specifically provided in RCW 13.40.020 and chapters 13.24 and 13.34 RCW, "juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years;

(3) "Juvenile offender" and "juvenile offense" have the meaning ascribed in RCW 13.40.020;

(4) "Court" when used without further qualification means the juvenile court judge(s) or commissioner(s);

(5) "Parent" or "parents," except as used in chapter 13.34 RCW, means that parent or parents who have the right of legal custody of the child. "Parent" or "parents" as used in chapter 13.34 RCW, means the biological or adoptive parents of a child unless the legal rights of that person have been terminated by judicial proceedings;

(6) "Custodian" means that person who has the legal right to custody of the child.

Sec. 3. RCW 13.34.030 and 2010 1st sp.s. c 8 s 13, 2010 c 272 s 10, and 2010 c 94 s 6 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," (~~and~~) "juvenile," and "youth" means:

(a) Any individual under the age of eighteen years; or

(b) Any individual age eighteen to twenty-one years who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of social and health services.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; (~~or~~)

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the

legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(11) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(12) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, disability lifeline benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(13) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(14) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child.

(15) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(16) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in 25 U.S.C. Sec. 1903(4).

(17) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The

description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(18) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services as defined in RCW 74.13.020.

(19) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031.

Sec. 4. RCW 74.13.020 and 2010 c 291 s 3 are each amended to read as follows:

For purposes of this chapter:

(1) "Case management" means the management of services delivered to children and families in the child welfare system, including permanency services, caseworker-child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means:

(a) A person less than eighteen years of age; or

(b) A person age eighteen to twenty-one years who is eligible to receive the extended foster care services authorized under RCW 74.13.031.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Committee" means the child welfare transformation design committee.

(6) "Department" means the department of social and health services.

(7) "Measurable effects" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.

(8) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

(9) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

(10) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

(11) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

(12) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services, as defined in this section.

(13) "Extended foster care services" means residential and other support services the department is authorized to provide to foster children. These services include, but are not limited to, placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

Sec. 5. RCW 74.13.031 and 2009 c 520 s 51, 2009 c 491 s 7, and 2009 c 235 s 2 are each reenacted and amended to read as follows:

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

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

(2) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the

passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

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

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

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

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

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

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

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

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

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

(10) ~~((Have authority to))~~ Provide continued ~~((foster care or group care as needed))~~ extended foster care services to youth ages

~~eighteen to twenty-one years~~ to participate in or complete a (~~high school or vocational school~~) secondary education program or a secondary education equivalency program.

(11)((a) Within amounts appropriated for this specific purpose, have authority to provide continued foster care or group care to youth ages eighteen to twenty-one years who are:

- (i) Enrolled and participating in a postsecondary or vocational educational program;
- (ii) Participating in a program or activity designed to promote or remove barriers to employment;
- (iii) Engaged in employment for eighty hours or more per month; or
- (iv) Incapable of engaging on any of the activities described in (a)(i) through (iii) of this subsection due to a medical condition that is supported by regularly updated information.

(b) A youth who remains eligible for placement services or benefits pursuant to department rules may continue to receive placement services and benefits until the youth reaches his or her twenty-first birthday.

(12) Within amounts appropriated for this specific purpose,) Have authority to provide adoption support benefits, or ((subsidized) relative guardianship ((benefits)) subsidies on behalf of youth ages eighteen to twenty-one years who achieved permanency through adoption or a ((subsidized) relative guardianship at age sixteen or older and who ((are engaged in one of the activities)) meet the criteria described in subsection (((11))) (10) of this section.

~~((43))~~ (12) Refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

~~((44))~~ (13) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

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

~~((45))~~ (14) Within amounts appropriated for this specific purpose, provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

~~((46))~~ (15) Have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

~~((47))~~ (16) Consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that

strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

Sec. 6. RCW 13.34.145 and 2009 c 520 s 30, 2009 c 491 s 4, and 2009 c 477 s 4 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

- (i) The continuing necessity for, and the safety and appropriateness of, the placement;
- (ii) The extent of compliance with the permanency plan by the department or supervising agency and any other service providers, the child's parents, the child, and the child's guardian, if any;
- (iii) The extent of any efforts to involve appropriate service providers in addition to department or supervising agency staff in planning to meet the special needs of the child and the child's parents;
- (iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

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

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

- (A) Being returned safely to his or her home;
- (B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;
- (C) Being placed for adoption;
- (D) Being placed with a guardian;
- (E) Being placed in the home of a fit and willing relative of the child; or
- (F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

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

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

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

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

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

(i) Enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(~~(5)~~)(6), and 13.34.096; and

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

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

- (a)(i) Order the permanency plan prepared by the supervising agency to be implemented; or
- (ii) Modify the permanency plan, and order implementation of the modified plan; and
- (b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

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

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

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

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

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

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

(10) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the department or supervising agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

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

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

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

(1) In order to facilitate the delivery of extended foster care services, the court shall postpone for six months the dismissal of a dependency proceeding for any child who is a dependent child in foster care at the age of eighteen years and who, at the time of his or her eighteenth birthday, is enrolled in a secondary education program or a secondary education equivalency program. The six-month postponement under this subsection is intended to allow a reasonable window of opportunity for an eligible youth who reaches the age of eighteen to request extended foster care services from the department or supervising agency. At the end of the six-month period, the court shall dismiss the dependency if the youth has not requested extended foster care services from the department. Until the youth requests to

participate in the extended foster care program, the department is relieved of supervisory responsibility for the youth.

(2) A youth receiving extended foster care services is a party to the dependency proceeding. The youth's parent or guardian shall be dismissed from the dependency proceeding when the youth reaches the age of eighteen years.

(3) The court shall order a youth participating in extended foster care services to be under the placement and care authority of the department, subject to the youth's continuing agreement to participate in extended foster care services.

(4) The court shall appoint counsel to represent a youth, as defined in RCW 13.34.030(2)(b), in dependency proceedings under this section.

(5) The case plan for and delivery of services to a youth receiving extended foster care services is subject to the review requirements set forth in RCW 13.34.138 and 13.34.145, and should be applied in a developmentally appropriate manner, as they relate to youth age eighteen to twenty-one years. Additionally, the court shall consider:

(a) Whether the youth is safe in his or her placement;

(b) Whether the youth continues to be eligible for extended foster care services;

(c) Whether the current placement is developmentally appropriate for the youth;

(d) The youth's development of independent living skills; and

(e) The youth's overall progress toward transitioning to full independence and the projected date for achieving such transition.

(6) Prior to the hearing, the youth's attorney shall indicate whether there are any contested issues and may provide additional information necessary for the court's review.

(7) Upon the request of the youth, or when the youth is no longer eligible to receive extended foster care services according to rules adopted by the department, the court shall dismiss the dependency.

NEW SECTION. Sec. 8. A new section is added to chapter 74.13 RCW to read as follows:

(1) Within amounts appropriated for this specific purpose, the department shall have authority to provide continued foster care or group care to youth ages eighteen to twenty-one years who are:

(a) Enrolled in a secondary education program or a secondary education equivalency program;

(b) Enrolled and participating in a postsecondary or vocational educational program;

(c) Participating in a program or activity designed to promote or remove barriers to employment;

(d) Engaged in employment for eighty hours or more per month; or

(e) Incapable of engaging in any of the activities described in (a) through (d) of this subsection due to a medical condition that is supported by regularly updated information.

(2) A youth who remains eligible for placement services or benefits under this section pursuant to department rules may, within amounts appropriated for this specific purpose, continue to receive placement services and benefits until the youth reaches his or her twenty-first birthday."

On page 1, line 1 of the title, after "services;" strike the remainder of the title and insert "amending RCW 13.04.011 and 74.13.020; reenacting and amending RCW 13.34.030, 74.13.031, and 13.34.145; adding a new section to chapter 13.34 RCW; adding a new section to chapter 74.13 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 SECOND SUBSTITUTE HOUSE BILL NO. 1128 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Roberts and Walsh spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1128, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1128, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 79; Nays, 17; Absent, 0; Excused, 2.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Carlyle, Clibborn, Cody, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Harris, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Orcutt, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Santos, Schmick, Seaquist, Sells, Smith, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie and Mr. Speaker.

Voting nay: Representatives Ahern, Buys, Chandler, Condotta, Haler, Hargrove, Hinkle, Klippert, Kretz, Kristiansen, Nealey, Overstreet, Pearson, Shea, Short, Taylor and Zeiger.

Excused: Representatives Crouse and Hope.

SECOND SUBSTITUTE HOUSE BILL NO. 1128, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

The Speaker (Representative Orwall presiding) called upon Representative Moeller to preside.

MESSAGE FROM THE SENATE

April 20, 2011

Mr. Speaker:

The Senate receded from its amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1546 under suspension of the rules returned ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1546 to second reading for purpose of amendment. The Senate further adopted amendment 1546-S2.E AMS MCAU S2923.1 and passed the measure as amended.

Strike everything after the enacting clause and insert the following:

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

(a) School district boards of directors are encouraged to support the expansion of innovative K-12 school or K-12 program models, with a priority on models focused on the arts, science, technology, engineering, and mathematics (A-STEM) that partner with business, industry, and higher education to increase A-STEM pathways that use project-based or hands-on learning for elementary, middle, and high school students; and

(b) Particularly in schools and communities that are struggling to improve student academic outcomes and close the educational opportunity gap, there is a critical need for innovative models of public education, with a priority on models that are tailored to A-STEM-related programs that implement interdisciplinary instructional delivery methods that are engaging, rigorous, and culturally relevant at each grade level.

(2) Therefore, the legislature intends to create a framework for change that includes:

(a) Leveraging community assets;

(b) Improving staff capacity and effectiveness;

(c) Developing family, school, business, industry, A-STEM professionals, and higher education partnerships in A-STEM education at all grade levels that can lead to industry certification or dual high school and college credit;

(d) Implementing evidence-based practices proven to be effective in reducing demographic disparities in student achievement; and

(e) Enabling educators and parents of selected schools and school districts to restructure school operations and develop model A-STEM programs that will improve student performance and close the educational opportunity gap.

NEW SECTION. Sec. 2. (1) The office of the superintendent of public instruction shall develop a process for school districts to apply to have one or more schools within the district designated as an innovation school, with a priority on schools focused on the arts, science, technology, engineering, and mathematics (A-STEM) that actively partners with the community, business, industry, and higher education, and uses project-based or hands-on learning. A group of schools that share common interests, such as geographical location, or that sequentially serve classes of students as they progress through elementary and secondary grades may be designated as an innovation zone. An innovation zone may include all schools within a school district. Consortia of multiple districts may also apply for designation as an innovation zone, to include all schools within the participating districts.

(2) Applications requesting designation of innovation schools or innovation zones must be developed by the school district in collaboration with educators, parents, businesses, industries, and the communities of participating schools. School districts must ensure that each school has substantial opportunity to participate in the development of the innovation plan under section 4 of this act.

(3) The office of the superintendent of public instruction shall develop common criteria for reviewing applications and for evaluating the need for waivers of state statutes and administrative rules as provided under section 5 of this act.

NEW SECTION. Sec. 3. (1) Applications to designate innovation schools and innovation zones must be submitted by school district boards of directors to their respective educational service districts by January 6, 2012, to be implemented beginning in the 2012-13 school year. Innovation plans must be able to be implemented without supplemental state funds.

(2) Each educational service district boards of directors shall review applications from within the district using the common criteria developed by the office of the superintendent of public instruction. Each educational service district shall recommend approval by the office of the superintendent of public instruction of no more than three applications from within each educational service district, no fewer than two of which must be focused on A-STEM-related innovations and no more than one of which may focus on other innovations. However, any educational service district with over three hundred fifty thousand full-time equivalent students may recommend approval of no more than ten applications from within the educational service district, no fewer than half of which must be focused on A-STEM-related innovations and no more than half of which may focus on other innovations. At least one of the recommended applications in each educational service district must

propose an innovation zone, as long as the application meets the review criteria.

(3) The office of the superintendent of public instruction shall approve the innovation plans of the applicants recommended by the educational service districts. School districts that have applied shall be notified by March 1, 2012, whether they were selected.

(4) Designation of innovation schools and innovation zones under this section shall be for a six-year period, beginning in the 2012-13 school year, unless the designation is revoked in accordance with section 7 of this act.

NEW SECTION. Sec. 4. (1) Each application for designation of an innovation school or innovation zone must include a proposed plan that:

(a) Defines the scope of the innovation school or innovation zone and describes why designation would enhance the ability of the school or schools to improve student achievement and close the educational opportunity gap including by implementing a program focused on the arts, science, technology, engineering, and mathematics themes that partner with the community, business, industry, and higher education and use project-based or hands-on learning;

(b) Enumerates specific, research-based activities and innovations to be carried out under the designation;

(c) Justifies each request for waiver of state statutes or administrative rules as provided under section 5 of this act;

(d) Justifies any requests for waiver of state statutes or administrative rules that are in addition to the waivers authorized under section 5 of this act that are necessary to carry out the proposed innovations;

(e) Identifies the improvements in student achievement and the educational opportunity gap that are expected to be accomplished through the innovations;

(f) Includes budget plans and anticipated sources of funding, including private grants and contributions, if any;

(g) Identifies the technical resources desired, the potential costs of those resources, and the institutions of higher education, educational service districts, businesses, industries, or consultants available to provide such services;

(h) Identifies the multiple measures for evaluation and accountability to be used to measure improvement in student achievement, closure in the educational opportunity gap, and the overall performance of the innovation school or innovation zone, including but not limited to assessment scores, graduation rates, and dropout rates;

(i) Includes a written statement that school directors and administrators are willing to exempt the designated school or schools from specifically identified local rules, as needed;

(j) Includes a written statement that school directors and local bargaining agents will modify those portions of their local agreements as applicable for the designated school or schools;

(k) Includes written statements of support from the district's board of directors, the superintendent, the principal and staff of schools seeking designation, each local employee association affected by the proposal, the local parent organization, and statements of support, willingness to participate, or concerns from any interested parent, business, institution of higher education, or community organization; and

(l) Commits all parties to work cooperatively during the term of the pilot project.

(2) A plan to designate an innovation school or innovation zone must be approved by a majority of the staff assigned to the school or schools participating in the plan.

NEW SECTION. Sec. 5. (1)(a) The superintendent of public instruction and the state board of education, each within the scope of their statutory authority, may grant waivers of state statutes and

administrative rules for designated innovation schools and innovation zones as follows:

(i) Waivers may be granted under RCW 28A.655.180 and 28A.305.140;

(ii) Waivers may be granted to permit the commingling of funds appropriated by the legislature on a categorical basis for such programs as, but not limited to, highly capable students, transitional bilingual instruction, and learning assistance; and

(iii) Waivers may be granted of other administrative rules that in the opinion of the superintendent of public instruction or the state board of education are necessary to be waived to implement an innovation school or innovation zone.

(b) State administrative rules dealing with public health, safety, and civil rights, including accessibility for individuals with disabilities, may not be waived.

(2) At the request of a school district, the superintendent of public instruction may petition the United States department of education or other federal agencies to waive federal regulations necessary to implement an innovation school or innovation zone.

(3) The state board of education may grant waivers for innovation schools or innovation zones of administrative rules pertaining to calculation of course credits for high school courses.

(4) Waivers may be granted under this section for a period not to exceed the duration of the designation of the innovation school or innovation zone.

(5) The superintendent of public instruction and the state board of education shall provide an expedited review of requests for waivers for designated innovation schools and innovation zones. Requests may be denied if the superintendent of public instruction or the state board of education conclude that the waiver:

(a) Is likely to result in a decrease in academic achievement in the innovation school or innovation zone;

(b) Would jeopardize the receipt of state or federal funds that a school district would otherwise be eligible to receive, unless the school district submits a written authorization for the waiver acknowledging that receipt of these funds could be jeopardized; or

(c) Would violate state or federal laws or rules that are not authorized to be waived.

NEW SECTION. Sec. 6. (1) The office of the superintendent of public instruction shall report to the education committees of the legislature on the progress of the designated innovation schools and innovation zones by January 15, 2013, and January 15th of each odd-numbered year thereafter. The report must include recommendations for waiver of state laws and administrative rules in addition to the waivers authorized under section 5 of this act, as identified in innovation plans submitted by school districts.

(2) Each innovation school and innovation zone must submit an annual report to the office of the superintendent of public instruction on their progress.

(3) The office of the superintendent of public instruction, through the center for the improvement of student learning, must collect and disseminate to all school districts and other interested parties information about the innovation schools and innovation zones.

NEW SECTION. Sec. 7. After reviewing the annual reports of each innovation school and zone, if the office of the superintendent of public instruction determines that the school or zone is not increasing progress over time as determined by the multiple measures for evaluation and accountability provided in the school or zone plan in accordance with section 4 of this act then the superintendent shall revoke the designation.

Sec. 8. RCW 28A.305.140 and 1990 c 33 s 267 are each amended to read as follows:

(1) The state board of education may grant waivers to school districts from the provisions of RCW 28A.150.200 through 28A.150.220 on the basis that such waiver or waivers are necessary to:

(a) Implement successfully a local plan to provide for all students

in the district an effective education system that is designed to enhance the educational program for each student. The local plan may include alternative ways to provide effective educational programs for students who experience difficulty with the regular education program; or

(b) Implement an innovation school or innovation zone designated under section 3 of this act.

(2) The state board shall adopt criteria to evaluate the need for the waiver or waivers.

Sec. 9. RCW 28A.655.180 and 2009 c 543 s 3 are each amended to read as follows:

(1) The state board of education, where appropriate, or the superintendent of public instruction, where appropriate, may grant waivers to districts from the provisions of statutes or rules relating to: The length of the school year; student-to-teacher ratios; and other administrative rules that in the opinion of the state board of education or the opinion of the superintendent of public instruction may need to be waived in order for a district to implement a plan for restructuring its educational program or the educational program of individual schools within the district or to implement an innovation school or innovation zone designated under section 3 of this act.

(2) School districts may use the application process in RCW 28A.305.140 to apply for the waivers under this section.

NEW SECTION. Sec. 10. Sections 2 through 7 of this act are each added to chapter 28A.630 RCW.

NEW SECTION. Sec. 11. This act expires June 30, 2019."

On page 1, line 1 of the title, after "to" strike the remainder of the title and insert "authorizing creation of innovation schools and innovation zones focused on science, technology, engineering, and mathematics in school districts; amending RCW 28A.305.140 and 28A.655.180; adding new sections to chapter 28A.630 RCW; 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 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1546 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Hargrove and Santos spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1546, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1546, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert,

Kretz, Kristiansen, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Santos, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representatives Crouse and Hope.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1546, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MOTION

Representative Shea moved to advance to the eighth order of business.

The Speaker (Representative Moeller presiding) stated the question before the House to be the adoption of the motion to advance to the eighth order of business and the motion failed by the following vote: Yeas, 41; Nays, 51; Absent, 4; Excused, 2.

Voting yea: Representatives Ahern, Alexander, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Harris, Hinkle, Johnson, Klippert, Kretz, Krisiansen, McCune, MorrisNealey, Orcutt, Overstreet, Parker, Pearson, Rivers, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh, Warnick, Wilcox and Zeiger.

Voting Nay: Representatives Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Finn, fitzgobbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jinkins, Kagi, Kenney, Kirby, Ladenburg, Liias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Reykdal, Roberts, Rolfes, Ryu, Santos, Seaquist, Sells, Springer, Stanford, Sullivan, Tharinger, Upthegrove, Van De Wege, Wylie and Mr. Speaker.

Excused: Representatives Crouse and Hope.

Absent: Representatives Eddy, Hurst, Kelley, and Takko.

THIRD READING

CONFERENCE COMMITTEE REPORT

April 20, 2011

Substitute Senate Bill No. 5836

Includes "New Item": YES

Mr. Speaker:

We of your Conference Committee, to whom was referred SUBSTITUTE SENATE BILL NO. 5836, , allowing certain private transportation providers to use certain public transportation facilities, have had the same under consideration and we recommend that:

All previous amendments not be adopted and that the attached striking amendment be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.61.165 and 1999 c 206 s 1 are each amended to read as follows:

(1) The state department of transportation and the local authorities are authorized to reserve all or any portion of any highway under their respective jurisdictions, including any designated lane or ramp, for the exclusive or preferential use of one or more of the following: (a) Public transportation vehicles (~~(a)~~); (b) private motor vehicles

carrying no fewer than a specified number of passengers; or (c) the following private transportation provider vehicles if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle, and if such use does not interfere with the efficiency, reliability, and safety of public transportation operations: (i) Auto transportation company vehicles regulated under chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (iii) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (iv) private employer transportation service vehicles, when such limitation will increase the efficient utilization of the highway or will aid in the conservation of energy resources.

(2) Any transit-only lanes that allow other vehicles to access abutting businesses that are authorized pursuant to subsection (1) of this section may not be authorized for the use of private transportation provider vehicles as described under subsection (1) of this section.

(3) The state department of transportation and the local authorities authorized to reserve all or any portion of any highway under their respective jurisdictions, for exclusive or preferential use, may prohibit the use of a high occupancy vehicle lane by the following private transportation provider vehicles: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, and marked or unmarked limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles, when the average transit speed in the high occupancy vehicle lane fails to meet department of transportation standards and falls below forty-five miles per hour at least ninety percent of the time during the peak hours, as determined by the department of transportation or the local authority, whichever operates the facility.

(4) Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all times or at specified times of day or on specified days. Violation of a restriction of highway usage prescribed by the appropriate authority under this section is a traffic infraction.

(5) Local authorities are encouraged to establish a process for private transportation providers, as described under subsections (1) and (3) of this section, to apply for the use of public transportation facilities reserved for the exclusive or preferential use of public transportation vehicles. The application and review processes should be uniform and should provide for an expeditious response by the local authority. Whenever practicable, local authorities should enter into agreements with such private transportation providers to allow for the reasonable use of these facilities.

(6) For the purposes of this section, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is similarly marked or identified to display the business name or logo on the driver and passenger sides of the vehicle, meets the annual certification requirements of the department of transportation, and is offered by an employer for the benefit of its employees.

Sec. 2. RCW 47.04.290 and 2008 c 257 s 1 are each amended to read as follows:

(1) Any local transit agency that has received state funding for a park and ride lot shall make reasonable accommodation for use of that lot by: Auto transportation companies regulated under chapter 81.68 RCW (~~(and)~~); passenger charter carriers regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; private, nonprofit transportation providers regulated under chapter 81.66 RCW (~~(, that intend to provide or already provide regularly scheduled service at that lot)~~); and private employer

transportation service vehicles, provided that such use does not interfere with the efficiency, reliability, and safety of public transportation operations. The accommodation must be in the form of an agreement between the applicable local transit agency and the private ((transit) transportation provider ((regulated under chapter 81.68 or 81.66 RCW)). The transit agency may require that the agreement include provisions to recover actual costs and fair market value for the use of the lot and its related facilities and to provide adequate insurance and indemnification of the transit agency, and other reasonable provisions to ensure that the private ((transit)) transportation provider's use does not unduly burden the transit agency. The transit agency may consider benefits to its public transportation system when establishing an amount to charge for the use of the park and ride lot and its related facilities. If the agreement includes provisions to recover actual costs, the private transportation provider is responsible to remit the full actual costs of park and ride lot use to the appropriate transit agency. No accommodation is required, and any agreement may be terminated, if the park and ride lot is at or exceeds ninety percent capacity between the hours of 6:00 a.m. and 4:00 p.m., Monday through Friday for two consecutive months. Additionally, any agreement may be terminated if the private transportation provider violates any policies guiding the terms of use of the park and ride lot. The transit agency may reserve the authority to designate which pick-up and drop-off zones of the park and ride lot may be used by the private transportation provider.

(2) A local transit agency described under subsection (1) of this section may enter into a cooperative agreement with a taxicab company regulated under chapter 81.72 RCW in order to accommodate the taxicab company at the agency's park and ride lot, provided the taxicab company must agree to provide service with reasonable availability, subject to schedule coordination provisions as agreed to by the parties.

(3) For the purposes of this section, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is similarly marked or identified to display the business name or logo on the driver and passenger sides of the vehicle, meets the annual certification requirements of the department, and is offered by an employer for the benefit of its employees.

(4) For the purposes of this section, "private transportation provider" means:

(a) A company regulated under chapter 81.68 RCW; chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; and chapter 81.66 RCW; and

(b) An entity providing private employer transportation service.

(5)(a) Local authorities are encouraged to establish a process for private transportation providers, described under subsections (1) and (4) of this section, to apply for the use of park and ride facilities.

(b) The process must provide a list of facilities that the local authority determines to be unavailable for use by the private transportation provider and must provide the criteria used to reach that determination.

(c) The application and review processes must be uniform and should provide for an expeditious response by the authority.

(6) The department must convene a stakeholder process that includes interested public and private transportation providers, which must develop standard permit forms, clear explanations of permit rate calculations, and standard indemnification provisions that may be used by all local authorities.

Sec. 3. RCW 47.52.025 and 1974 ex.s. c 133 s 1 are each amended to read as follows:

(1) Highway authorities of the state, counties, and incorporated cities and towns, in addition to the specific powers granted in this chapter, shall also have, and may exercise, relative to limited access facilities, any and all additional authority, now or hereafter vested in them relative to highways or streets within their respective jurisdictions,

and may regulate, restrict, or prohibit the use of such limited access facilities by various classes of vehicles or traffic. Such highway authorities may reserve any limited access facility or portions thereof, including designated lanes or ramps for the exclusive or preferential use of (a) public transportation vehicles, (b) privately owned buses, ((c)) (c) private motor vehicles carrying not less than a specified number of passengers, or (d) the following private transportation provider vehicles if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle, and if such use does not interfere with the efficiency, reliability, and safety of public transportation operations: (i) Auto transportation company vehicles regulated under chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (iii) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (iv) private employer transportation service vehicles, when such limitation will increase the efficient utilization of the highway facility or will aid in the conservation of energy resources. Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all time or at specified times of day or on specified days.

(2) Any transit-only lanes that allow other vehicles to access abutting businesses that are reserved pursuant to subsection (1) of this section may not be authorized for the use of private transportation provider vehicles as described under subsection (1) of this section.

(3) Highway authorities of the state, counties, or incorporated cities and towns may prohibit the use of limited access facilities by the following private transportation provider vehicles: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, and marked or unmarked limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles, when the average transit speed in the high occupancy vehicle travel lane fails to meet department standards and falls below forty-five miles per hour at least ninety percent of the time during the peak hours for two consecutive months.

(4)(a) Local authorities are encouraged to establish a process for private transportation providers, described under subsections (1) and (3) of this section, to apply for the use of limited access facilities that are reserved for the exclusive or preferential use of public transportation vehicles.

(b) The process must provide a list of facilities that the local authority determines to be unavailable for use by the private transportation provider and must provide the criteria used to reach that determination.

(c) The application and review processes must be uniform and should provide for an expeditious response by the authority.

(5) For the purposes of this section, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is similarly marked or identified to display the business name or logo on the driver and passenger sides of the vehicle, meets the annual certification requirements of the department, and is offered by an employer for the benefit of its employees.

NEW SECTION. Sec. 4. A new section is added to chapter 47.04 RCW to read as follows:

When designing portions of a highway that are intended to be used as portions reserved for the exclusive or preferential use of public transportation vehicles, state and local jurisdictions shall consider whether the design will safely accommodate private transportation provider vehicles that may be authorized to use the reserved portions under RCW 46.61.165 and 47.52.025 without

interfering with the efficiency, reliability, and safety of public transportation operations.

NEW SECTION. Sec. 5. If any part of this act is found to be in conflict with mitigation requirements under the state environmental policy act (chapter 43.21C RCW) or the national environmental policy act (42 U.S.C. Secs. 4321 through 4347) or in any other way conflicts with federal requirements that are a condition or part of the allocation of federal funds to the state or local facilities, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or local authorities." Correct the title.

and that the bill do pass as recommended by the Conference Committee:

Senators Haugen, White and King.
Representatives Clibborn, Billig and Hargrove.

There being no objection, the House adopted the conference committee report on SUBSTITUTE SENATE BILL NO. 5836 and advanced the bill as recommended by the conference committee to final passage.

**FINAL PASSAGE OF HOUSE BILL AS
RECOMMENDED BY CONFERENCE COMMITTEE**

Representatives Clibborn and Hargrove spoke in favor of the passage of the bill as recommended by the conference committee.

The Speaker (Representative Moeller presiding) stated the question before the House to be final passage of Substitute Senate Bill No. 5836 as recommended by the conference committee.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5836, as recommended by the conference committee, and the bill passed the House by the following votes: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Lias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Santos, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Crouse.

SUBSTITUTE SENATE BILL NO. 5836, as recommended by the conference committee, having received the constitutional majority, was declared passed.

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

SECOND READING

**SUBSTITUTE SENATE BILL NO. 5385, by Senate
Committee on Ways & Means (originally sponsored by
Senators Regala, Ranker, Rockefeller and Fraser)**

Increasing revenue to the state wildlife account.

The bill was read the second time.

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

Representatives Blake and Takko spoke in favor of the passage of the bill.

Representatives Chandler, Ahern and Orcutt spoke against the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5385.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5385, and the bill passed the House by the following vote: Yeas, 55; Nays, 42; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jinkins, Kagi, Kelley, Kenney, Kirby, Ladenburg, Lias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Reykdal, Roberts, Rolfes, Ryu, Santos, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Wylie and Mr. Speaker.

Voting nay: Representatives Ahern, Alexander, Anderson, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Harris, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Overstreet, Parker, Pearson, Probst, Rivers, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh, Warnick, Wilcox and Zeiger.

Excused: Representative Crouse.

SUBSTITUTE SENATE BILL NO. 5385, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5622, by
Senate Committee on Ways & Means (originally sponsored by
Senators Ranker, Swecker, Fraser, Hargrove, White, Regala,
Shin, Chase, Kline and Conway)**

Concerning recreation access on state lands.

The bill was read the second time.

With the consent of the house, amendments (676) and (682) were withdrawn. Amendments (678), (679), (680), (677) and (681) were ruled out of order.

Representative Ross moved the adoption of amendment (690).

On page 5, beginning on line 35, after "(2)" strike all material through "section" on page 6, line 11 and insert "All revenue in the account must be made available to the state parks and recreation commission through deposit in the state parks renewal and stewardship account created in RCW 79A.05.215"

On page 13, beginning on line 34, strike all of section 21

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

On page 15, beginning on line 10, strike all of section 23

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

Correct the title.

Representatives Ross, Kristiansen, Ross (again) and Kristiansen (again) spoke in favor of the adoption of the amendment.

Representatives Blake, Dunshee and Blake (again) spoke against the adoption of the amendment.

An electronic roll call was requested.

ROLL CALL

The Clerk called the roll on the adoption of amendment (690) and the amendment was not adopted by the following vote: Yeas, 41; Nays, 56; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Harris, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Overstreet, Parker, Probst, Rivers, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh, Warnick, Wilcox and Zeiger.

Voting nay: Representatives Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jinkins, Kagi, Kelley, Kenney, Kirby, Ladenburg, Liias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Orcutt, Ormsby, Orwall, Pedersen, Pettigrew, Reykdal, Roberts, Rolfes, Ryu, Santos, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Wylie and Mr. Speaker.

Excused: Representative Crouse.

Amendment (690) was not adopted.

Representative Bailey moved the adoption of amendment (689).

0)

On page 8, line 20, after "shall" insert "offer to"

On page 8, line 24, after "may" strike "not" and insert "~~((not))~~"

On page 8, line 25, after "opting" strike "not" and insert "~~((not))~~"

On page 8, line 26, after "that the" strike "opt-out" and insert "~~((opt-out))~~ opt-in"

On page 8, at the beginning of line 29, strike "not" and insert "~~((not))~~"

On page 8, beginning on line 32, after "for" strike "the operation and maintenance of" and insert "~~((the operation and maintenance of))~~ capital projects within"

Representatives Bailey, Alexander, Orcutt and Ross spoke in favor of the adoption of the amendment.

Representative Van De Wege spoke against the adoption of the amendment.

An electronic roll call was requested.

ROLL CALL

The Clerk called the roll on the adoption of amendment (689) and the amendment was not adopted by the following vote: Yeas, 45; Nays, 52; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Harris, Hinkle, Hope, Hunter, Johnson, Kelley, Klippert, Kretz, Kristiansen, Liias, McCune, Nealey, Orcutt, Overstreet, Parker, Pearson, Probst, Rivers, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh, Warnick, Wilcox and Zeiger.

Voting nay: Representatives Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hurst, Jinkins, Kagi, Kenney, Kirby, Ladenburg, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Reykdal, Roberts, Rolfes, Ryu, Santos, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Wylie and Mr. Speaker.

Excused: Representative Crouse.

Amendment (689) was not adopted.

Representative Taylor moved the adoption of amendment (688).

On page 16, beginning on line 3, after "must be" strike all material through "purposes" on line 5 and insert "used for the management of noxious weeds"

Representatives Taylor, Pearson and Taylor (again) spoke in favor of the adoption of the amendment.

Representative Van De Wege spoke against the adoption of the amendment.

Amendment (688) was not adopted.

An electronic roll call was requested.

ROLL CALL

The Clerk called the roll on the adoption of amendment (688) and the amendment was not adopted by the following vote: Yeas, 43; Nays, 54; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Harris, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, McCune, Miloscia, Nealey, Overstreet, Parker, Pearson, Probst, Rivers, Rodne, Ross, Santos, Schmick, Shea, Short, Smith, Taylor, Walsh, Warnick, Wilcox and Zeiger.

Voting nay: Representatives Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jinkins, Kagi, Kelley, Kenney, Kirby, Ladenburg, Liias, Lytton, Maxwell, McCoy, Moeller, Morris, Moscoso, Orcutt, Ormsby, Orwall, Pedersen, Pettigrew, Reykdal, Roberts, Rolfes, Ryu, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Wylie and Mr. Speaker.

Excused: Representative Crouse.

Representative Shea moved the adoption of amendment (675).

0)

On page 18, after line 22, insert the following:

"Sec. 26. RCW 79A.05.030 and 2005 c 373 s 1 and 2005 c 360 s 5 are each reenacted and amended to read as follows:

The commission shall:

(1) Have the care, charge, control, and supervision of all parks and parkways acquired or set aside by the state for park or parkway purposes.

(2) Adopt policies, and adopt, issue, and enforce rules pertaining to the use, care, and administration of state parks and parkways. The commission shall cause a copy of the rules to be kept posted in a conspicuous place in every state park to which they are applicable, but failure to post or keep any rule posted shall be no defense to any prosecution for the violation thereof.

(3) Permit the use of state parks and parkways by the public under such rules as shall be adopted.

(4) Clear, drain, grade, seed, and otherwise improve or beautify parks and parkways, and erect structures, buildings, fireplaces, and comfort stations and build and maintain paths, trails, and roadways through or on parks and parkways.

(5) Grant concessions or leases in state parks and parkways, upon such rentals, fees, or percentage of income or profits and for such terms, in no event longer than fifty years, and upon such conditions as shall be approved by the commission: PROVIDED, That leases exceeding a twenty-year term shall require a unanimous vote of the commission: PROVIDED FURTHER, That if, during the term of any concession or lease, it is the opinion of the commission that it would be in the best interest of the state, the commission may, with the consent of the concessionaire or lessee, alter and amend the terms and conditions of such concession or lease: PROVIDED FURTHER, That television station leases shall be subject to the provisions of RCW 79A.05.085, only: PROVIDED FURTHER, That the rates of such concessions or leases shall be renegotiated at five-year intervals. No concession shall be granted which will prevent the public from having free access to the scenic attractions of any park or parkway.

(6) Employ such assistance as it deems necessary. Commission expenses relating to its use of volunteer assistance shall be limited to premiums or assessments for the insurance of volunteers by the department of labor and industries, compensation of staff who assist volunteers, materials and equipment used in authorized volunteer projects, training, reimbursement of volunteer travel as provided in RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to volunteer recognition. The commission, at its discretion, may waive commission fees otherwise applicable to volunteers. ~~((The commission shall not use volunteers to replace or supplant classified positions. The use of volunteers may not lead to the elimination of any employees or permanent positions in the bargaining unit.))~~

(7) By majority vote of its authorized membership select and purchase or obtain options upon, lease, or otherwise acquire for and in the name of the state such tracts of land, including shore and tide lands, for park and parkway purposes as it deems proper. If the commission cannot acquire any tract at a price it deems reasonable, it may, by majority vote of its authorized membership, obtain title thereto, or any part thereof, by condemnation proceedings conducted by the attorney general as provided for the condemnation of rights-of-way for state highways. Option agreements executed under authority of this subsection shall be valid only if:

(a) The cost of the option agreement does not exceed one dollar; and

(b) Moneys used for the purchase of the option agreement are from (i) funds appropriated therefor, or (ii) funds appropriated for undesignated land acquisitions, or (iii) funds deemed by the commission to be in excess of the amount necessary for the purposes for which they were appropriated; and

(c) The maximum amount payable for the property upon exercise of the option does not exceed the appraised value of the property.

(8) Cooperate with the United States, or any county or city of this state, in any matter pertaining to the acquisition, development, redevelopment, renovation, care, control, or supervision of any park or parkway, and enter into contracts in writing to that end. All parks or parkways, to which the state contributed or in whose care, control, or supervision the state participated pursuant to the provisions of this section, shall be governed by the provisions hereof.

(9) Within allowable resources, maintain policies that increase the number of people who have access to free or low-cost recreational opportunities for physical activity, including noncompetitive physical activity.

(10) Adopt rules establishing the requirements for a criminal history record information search for the following: Job applicants, volunteers, and independent contractors who have unsupervised access to children or vulnerable adults, or who will be responsible for collecting or disbursing cash or processing credit/debit card transactions. These background checks will be done through the Washington state patrol criminal identification section and may include a national check from the federal bureau of investigation, which shall be through the submission of fingerprints. A permanent employee of the commission, employed as of July 24, 2005, is exempt from the provisions of this subsection."

ReNUMBER the remaining sections consecutively and correct any internal references accordingly.
Correct the title.

Representatives Shea, Klippert and Parker spoke in favor of the adoption of the amendment.

Representatives Hudgins and Van De Wege spoke against the adoption of the amendment.

An electronic roll call was requested.

ROLL CALL

The Clerk called the roll on the adoption of amendment (675) and the amendment was not adopted by the following vote: Yeas, 43; Nays, 54; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Dahlquist, Dammeyer, DeBolt, Fagan, Finn, Haler, Hargrove, Harris, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Overstreet, Parker, Pearson, Probst, Rivers, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh, Warnick, Wilcox and Zeiger.

Voting nay: Representatives Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jinkins, Kagi, Kelley, Kenney, Kirby, Ladenburg, Lias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Reykdal, Roberts, Rolfes, Ryu, Santos, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Wylie and Mr. Speaker.

Excused: Representative Crouse.

Amendment (675) was not adopted.

Representative Smith moved the adoption of amendment (687).

On page 18, after line 22, insert the following:

"NEW SECTION. Sec. 26. A new section is added to chapter 79A.05 RCW to read as follows:

(1) The commission may not authorize the purchase of, or otherwise receive ownership of, any real property that may meet the definition of recreational lands provided in section 2 of this act unless the funding available to the commission is determined sustainable for the purposes of operating and maintaining all existing developed state parks.

(2) Any capital budget requests made of the legislature by the governor must reflect the policy provided in this section.

(3) A determination of sustainability may be made either by the legislature or the office of financial management."

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

Correct the title.

Representatives Smith, Orcutt, Parker and Klippert spoke in favor of the adoption of the amendment.

Representatives Dunshee and Hudgins spoke against the adoption of the amendment.

An electronic roll call was requested.

ROLL CALL

The Clerk called the roll on the adoption of amendment (687) and the amendment was not adopted by the following vote: Yeas, 42; Nays, 55; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Harris, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Overstreet, Parker, Pearson, Probst, Rivers, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh, Warnick, Wilcox and Zeiger.

Voting nay: Representatives Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jinkins, Kagi, Kelley, Kenney, Kirby, Ladenburg, Lias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Reykdal, Roberts, Rolfes, Ryu, Santos, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Wylie and Mr. Speaker.

Excused: Representative Crouse.

Amendment (687) was not adopted.

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

Representatives Hudgins, Van De Wege, Hurst and Roberts spoke in favor of the passage of the bill.

Representatives Hinkle, Alexander, Armstrong, Orcutt, Taylor, Ahern, Rivers, Angel and Parker spoke against the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5622.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5622, and the bill passed the House by the following vote: Yeas, 55; Nays, 42; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jinkins, Kagi, Kelley, Kenney, Kirby, Ladenburg, Lias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Reykdal, Roberts, Rolfes, Ryu, Santos, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Wylie and Mr. Speaker.

Voting nay: Representatives Ahern, Alexander, Anderson, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Harris, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Overstreet, Parker, Pearson, Probst, Rivers, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh, Warnick, Wilcox and Zeiger.

Excused: Representative Crouse.

SECOND SUBSTITUTE SENATE BILL NO. 5622, having received the necessary constitutional majority, was declared passed.

The Speaker (Representative Moeller presiding) called upon Representative Orwall to preside.

THIRD READING

MESSAGE FROM THE SENATE

April 20, 2011

Mr. Speaker:

The Senate insists on its position on SUBSTITUTE HOUSE BILL NO. 1081 and asks the House to concur, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House adhered to its position on SUBSTITUTE HOUSE BILL NO. 1081.

MESSAGE FROM THE SENATE

April 19, 2011

Mr. Speaker:

The Senate refuses to recede from its amendment to SUBSTITUTE HOUSE BILL NO. 1516 and asks the House for a Conference thereon. The President has appointed the following members as Conferees: Senators Haugen, King and White, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1516 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 21, 2011

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1026 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 7.28 RCW to read as follows:

(1) A party who prevails against the holder of record title at the time an action asserting title to real property by adverse possession was filed, or against a subsequent purchaser from such holder, may be required to:

(a) Reimburse such holder or purchaser for part or all of any taxes or assessments levied on the real property during the period the prevailing party was in possession of the real property in question and which are proven by competent evidence to have been paid by such holder or purchaser; and

(b) Pay to the treasurer of the county in which the real property is located part or all of any taxes or assessments levied on the real property after the filing of the adverse possession claim and which are due and remain unpaid at the time judgment on the claim is entered.

(2) If the court orders reimbursement for taxes or assessments paid or payment of taxes or assessments due under subsection (1) of this section, the court shall determine how to allocate taxes or assessments between the property acquired by adverse possession and the property retained by the title holder. In making its determination, the court shall consider all the facts and shall order such reimbursement or payment as appears equitable and just.

(3) The prevailing party in an action asserting title to real property by adverse possession may request the court to award costs and reasonable attorneys' fees. The court may award all or a portion of costs and reasonable attorneys' fees to the prevailing party if, after considering all the facts, the court determines such an award is equitable and just.

NEW SECTION. Sec. 2. This act applies to actions filed on or after July 1, 2012."

On page 1, line 1 of the title, after "possession;" strike the remainder of the title and insert "adding a new section to chapter 7.28 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. 1026 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1026, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1026, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt,

Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Santos, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representative Nealey.

Excused: Representative Crouse.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1026, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 19, 2011

Mr. Speaker:

The Senate insists on its position in the House amendment to SUBSTITUTE HOUSE BILL NO. 1053 and asks the House for a Conference thereon. The President has appointed the following members as Conferees: Senators Hargrove, Kline and Pflug, 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. 1053 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Moeller and Reykdal spoke in favor of the passage of the bill.

Representative Rodne spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1053, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1053, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 57; Nays, 40; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Kagi, Kelley, Kenney, Kirby, Ladenburg, Liias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Reykdal, Roberts, Rolfes, Ryu, Santos, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Wylie and Mr. Speaker.

Voting nay: Representatives Ahern, Alexander, Anderson, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Harris, Hinkle, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Overstreet, Parker, Pearson, Rivers, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh, Warnick, Wilcox and Zeiger.

Excused: Representative Crouse.

SUBSTITUTE HOUSE BILL NO. 1053, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 21, 2011

Mr. Speaker:

The Senate receded from its amendment to HOUSE BILL NO. 1229. Under suspension of the rules, the bill was returned to second reading for purpose of amendment. The Senate adopted the following amendment and passed the bill as amended by the Senate:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.25.010 and 2009 c 181 s 2 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Alcohol" means any substance containing any form of alcohol, including but not limited to ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(a) The number of grams of alcohol per one hundred milliliters of blood; or

(b) The number of grams of alcohol per two hundred ten liters of breath.

(3) "Commercial driver's license" (CDL) means a license issued to an individual under chapter 46.20 RCW that has been endorsed in accordance with the requirements of this chapter to authorize the individual to drive a class of commercial motor vehicle.

(4) The "commercial driver's license information system" (CDLIS) is the information system established pursuant to ~~(the CMVSA)~~ 49 U.S.C. Sec. 31309 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial driver's instruction permit" means a permit issued under RCW 46.25.060(5).

(6) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds or more); or

(b) Has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more); or

(c) Is designed to transport sixteen or more passengers, including the driver; or

(d) Is of any size and is used in the transportation of hazardous materials as defined in this section; or

(e) Is a school bus regardless of weight or size.

(7) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, entry into a deferred prosecution program under chapter 10.05 RCW, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(8) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and 46.25.120, "drive" includes operation or physical control of a motor vehicle anywhere in the state.

(10) "Drugs" are those substances as defined by RCW 69.04.009, including, but not limited to, those substances defined by 49 C.F.R. Sec. 40.3.

(11) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(12) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single vehicle. The GVWR of a combination or articulated vehicle, commonly referred to as the "gross combined weight rating" or GCWR, is the GVWR of the power unit plus the GVWR of the towed unit or units. If the GVWR of any unit cannot be determined, the actual gross weight will be used. If a vehicle with a GVWR of less than 11,794 kilograms (26,001 pounds or less) has been structurally modified to carry a heavier load, then the actual gross weight capacity of the modified vehicle, as determined by RCW 46.44.041 and 46.44.042, will be used as the GVWR.

(13) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be placarded under subpart F of 49 C.F.R. Part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73.

(14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(15) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. Secs. 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North American uniform out-of-service criteria.

(16) "Positive alcohol confirmation test" means an alcohol confirmation test that:

(a) Has been conducted by a breath alcohol technician under 49 C.F.R. Part 40; and

(b) Indicates an alcohol concentration of 0.04 or more.

A report that a person has refused an alcohol test, under circumstances that constitute the refusal of an alcohol test under 49 C.F.R. Part 40, will be considered equivalent to a report of a positive alcohol confirmation test for the purposes of this chapter.

(17) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(18) "Serious traffic violation" means:

(a) Excessive speeding, defined as fifteen miles per hour or more in excess of the posted limit;

(b) Reckless driving, as defined under state or local law;

(c) A violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

(d) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(e) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession; however, any individual who provides proof to the court by the date the individual must appear in court or pay any fine for such a violation, that the individual held a

valid CDL on the date the citation was issued, is not guilty of a "serious traffic offense";

(f) Driving a commercial motor vehicle without the proper class of commercial driver's license endorsement or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported; and

(g) Any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, that the department determines by rule to be serious.

(19) "State" means a state of the United States and the District of Columbia.

(20) "Substance abuse professional" means an alcohol and drug specialist meeting the credentials, knowledge, training, and continuing education requirements of 49 C.F.R. Sec. 40.281.

(21) "Tank vehicle" means a vehicle that is designed to transport a liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Tank vehicles include, but are not limited to cargo tanks and portable tanks. However, this definition does not include portable tanks having a rated capacity under one thousand gallons.

(22) "Type of driving" means one of the following:

(a) "Nonexcepted interstate," which means the CDL holder or applicant operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. Part 391 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(b) "Excepted interstate," which means the CDL holder or applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, from all or parts of the qualification requirements of 49 C.F.R. Part 391 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is therefore not required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(c) "Nonexcepted intrastate," which means the CDL holder or applicant operates only in intrastate commerce and is therefore subject to state driver qualification requirements; or

(d) "Excepted intrastate," which means the CDL holder or applicant operates in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements.

(23) "United States" means the fifty states and the District of Columbia.

~~((23))~~ (24) "Verified positive drug test" means a drug test result or validity testing result from a laboratory certified under the authority of the federal department of health and human services that:

(a) Indicates a drug concentration at or above the cutoff concentration established under 49 C.F.R. Sec. 40.87; and

(b) Has undergone review and final determination by a medical review officer.

A report that a person has refused a drug test, under circumstances that constitute the refusal of a federal department of transportation drug test under 49 C.F.R. Part 40, will be considered equivalent to a report of a verified positive drug test for the purposes of this chapter.

Sec. 2. RCW 46.25.080 and 2004 c 249 s 8 and 2004 c 187 s 5 are each reenacted and amended to read as follows:

(1) The commercial driver's license must be marked "commercial driver's license" or "CDL," and must be, to the maximum extent practicable, tamperproof. It must include, but not be limited to, the following information:

(a) The name and residence address of the person;

(b) The person's color photograph;

(c) A physical description of the person including sex, height, weight, and eye color;

(d) Date of birth;

(e) The person's social security number or any number or identifier deemed appropriate by the department;

(f) The person's signature;

(g) The class or type of commercial motor vehicle or vehicles that the person is authorized to drive, together with any endorsements or restrictions;

(h) The name of the state; and

(i) The dates between which the license is valid.

(2) Commercial driver's licenses may be issued with the classifications, endorsements, and restrictions set forth in this subsection. The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles and vehicles that require an endorsement, unless the proper endorsement appears on the license.

(a) Licenses may be classified as follows:

(i) Class A is a combination of vehicles with a gross combined weight rating (GCWR) of 26,001 pounds or more, if the GVWR of the vehicle or vehicles being towed is in excess of 10,000 pounds.

(ii) Class B is a single vehicle with a GVWR of 26,001 pounds or more, and any such vehicle towing a vehicle not in excess of 10,000 pounds.

(iii) Class C is a single vehicle with a GVWR of less than 26,001 pounds or any such vehicle towing a vehicle with a GVWR not in excess of 10,000 pounds consisting of:

(A) Vehicles designed to transport sixteen or more passengers, including the driver; or

(B) Vehicles used in the transportation of hazardous materials.

(b) The following endorsements and restrictions may be placed on a license:

(i) "H" authorizes the driver to drive a vehicle transporting hazardous materials.

(ii) "K" restricts the driver to vehicles not equipped with air brakes.

(iii) "T" authorizes driving double and triple trailers.

(iv) "P1" authorizes driving all vehicles, other than school buses, carrying passengers.

(v) "P2" authorizes driving vehicles with a GVWR of less than 26,001 pounds, other than school buses, carrying sixteen or more passengers, including the driver.

(vi) "N" authorizes driving tank vehicles.

(vii) "X" represents a combination of hazardous materials and tank vehicle endorsements.

(viii) "S" authorizes driving school buses.

(ix) "V" means that the driver has been issued a medical variance.

The license may be issued with additional endorsements and restrictions as established by rule of the director.

(3) All school bus drivers must have either a "P1" or "P2" endorsement depending on the GVWR of the school bus being driven.

(4) Before issuing a commercial driver's license, the department shall obtain driving record information:

(a) Through the commercial driver's license information system;

(b) Through the national driver register;

(c) From the current state of record; and

(d) From all states where the applicant was previously licensed over the last ten years to drive any type of motor vehicle.

A check under (d) of this subsection need be done only once, either at the time of application for a new commercial driver's license, or upon application for a renewal of a commercial driver's license for the first time after July 1, 2005, provided a notation is made on the driver's record confirming that the driving record check has been made and noting the date it was completed.

(5) Within ten days after issuing a commercial driver's license, the department must notify the commercial driver's license information system of ~~((that fact,))~~ the information required under 49 C.F.R. Sec. 383.73 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section and provide all information required to ensure identification of the person.

(6) A commercial driver's license shall expire in the same manner as provided in RCW 46.20.181.

(7) When applying for renewal of a commercial driver's license, the applicant shall:

(a) Complete the application form required by RCW 46.25.070(1), providing updated information and required certifications;

(b) Submit the application to the department in person; and

(c) If the applicant wishes to retain a hazardous materials endorsement, take and pass the written test for a hazardous materials endorsement.

NEW SECTION. Sec. 3. A new section is added to chapter 46.25 RCW to read as follows:

(1)(a) Any person applying for a CDL must certify that he or she is or expects to be engaged in one of the following types of driving:

- (i) Nonexcepted interstate;
- (ii) Excepted interstate;
- (iii) Nonexcepted intrastate; or
- (iv) Excepted intrastate.

(b) From January 30, 2012, to January 30, 2014, the department may require that any person holding a CDL prior to the effective date of this section must provide the department with the certification required under (a) of this subsection. The CDL of a person failing to submit the required certification is subject to downgrade under subsection (4) of this section.

(2) A CDL applicant or holder who certifies under subsection (1)(a)(i) of this section that he or she is or expects to be engaged in nonexcepted interstate commerce must provide a copy of a medical examiner's certificate prepared by a medical examiner, as defined in 49 C.F.R. Sec. 390.5 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. Upon submission, a copy of the medical examiner's certificate must be date-stamped by the department. A CDL holder who certifies under subsection (1)(a)(i) of this section must submit a copy of each subsequently issued medical examiner's certificate.

(3) For each operator of a commercial motor vehicle required to have a commercial driver's license, the department must meet the following requirements:

(a)(i) The driver's self-certification of type of driving under subsection (1) of this section must be maintained on the driver's record and the CDLIS driver record;

(ii) The copy of a medical examiner's certificate, when submitted under subsection (2) of this section, must be retained for three years beyond the date the certificate was issued; and

(iii) When a medical examiner's certificate is submitted under subsection (2) of this section, the information required under 49 C.F.R. Sec. 383.73(j)(1)(iii) as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section must be posted to the CDLIS driver record within ten calendar days from

the date submitted. The indicator of medical certification status, such as "certified" or "not-certified," must be maintained on the driver's record.

(b) Within ten calendar days of the driver's medical certification status expiring or a medical variance expiring or being rescinded, the medical certification status of the driver must be updated to "not-certified."

(c) Within ten calendar days of receiving information from the federal motor carrier safety administration regarding issuance or renewal of a medical variance for a driver, the department must update the CDLIS driver record to include the medical variance information.

(4)(a) If a driver's medical certification or medical variance expires, or the federal motor carrier safety administration notifies the department that a medical variance was removed or rescinded, the department must:

(i) Notify the driver of his or her "not-certified" medical certification status and that the CDL privilege will be removed from the driver's license unless the driver submits a current medical certificate or medical variance, or changes his or her self-certification to driving only in excepted or intrastate commerce; and

(ii) Initiate procedures for downgrading the license. The CDL downgrade must be completed and recorded within sixty days of the driver's medical certification status becoming "not-certified" to operate a commercial motor vehicle.

(b) Beginning January 30, 2014, if a driver fails to provide the department with the certification required in subsection (1) of this section, or a current medical examiner's certificate if the driver self-certifies under subsection (1)(a)(i) of this section that he or she is operating in nonexcepted interstate commerce as required in subsection (2) of this section, the department must mark the CDLIS driver record as "not-certified" and initiate a CDL downgrade in accordance with (a)(ii) of this subsection.

(c) A driver whose CDL has been downgraded under this subsection may restore the CDL privilege by providing the necessary certifications or medical variance information to the department.

Sec. 4. RCW 46.25.090 and 2006 c 327 s 4 are each amended to read as follows:

(1) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if a report has been received by the department pursuant to RCW 46.20.308 or 46.25.120, or if the person has been convicted of a first violation, within this or any other jurisdiction, of:

(a) Driving a motor vehicle under the influence of alcohol or any drug;

(b) Driving a commercial motor vehicle while the alcohol concentration in the person's system is 0.04 or more, or driving a noncommercial motor vehicle while the alcohol concentration in the person's system is 0.08 or more, or is 0.02 or more if the person is under age twenty-one, as determined by any testing methods approved by law in this state or any other state or jurisdiction;

(c) Leaving the scene of an accident involving a motor vehicle driven by the person;

(d) Using a motor vehicle in the commission of a felony;

(e) Refusing to submit to a test or tests to determine the driver's alcohol concentration or the presence of any drug while driving a motor vehicle;

(f) Driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle;

(g) Causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular homicide and negligent homicide.

If any of the violations set forth in this subsection occurred while transporting hazardous material, the person is disqualified for a period of not less than three years.

(2) A person is disqualified for life if it has been determined that the person has committed or has been convicted of two or more violations of any of the offenses specified in subsection (1) of this section, or any combination of those offenses, arising from two or more separate incidents.

(3) The department may adopt rules, in accordance with federal regulations, establishing guidelines, including conditions, under which a disqualification for life under subsection (2) of this section may be reduced to a period of not less than ten years.

(4) A person is disqualified from driving a commercial motor vehicle for life who uses a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by chapter 69.50 RCW, or possession with intent to manufacture, distribute, or dispense a controlled substance, as defined by chapter 69.50 RCW.

(5)(a) A person is disqualified from driving a commercial motor vehicle for a period of:

(i) Not less than sixty days if:

(A) Convicted of or found to have committed a second serious traffic violation while driving a commercial motor vehicle; or

(B) Convicted of reckless driving, where there has been a prior serious traffic violation; or

(ii) Not less than one hundred twenty days if:

(A) Convicted of or found to have committed a third or subsequent serious traffic violation while driving a commercial motor vehicle; or

(B) Convicted of reckless driving, where there has been two or more prior serious traffic violations.

(b) The disqualification period under (a)(ii) of this subsection must be in addition to any other previous period of disqualification.

(c) For purposes of determining prior serious traffic violations under this subsection, each conviction of or finding that a driver has committed a serious traffic violation while driving a commercial motor vehicle or noncommercial motor vehicle, arising from a separate incident occurring within a three-year period, must be counted.

(6) A person is disqualified from driving a commercial motor vehicle for a period of:

(a) Not less than (~~ninety~~) one hundred eighty days nor more than one year if convicted of or found to have committed a first violation of an out-of-service order while driving a commercial vehicle;

(b) Not less than (~~one~~) two years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed two violations of out-of-service orders while driving a commercial motor vehicle in separate incidents;

(c) Not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed three or more violations of out-of-service orders while driving commercial motor vehicles in separate incidents;

(d) Not less than one hundred eighty days nor more than two years if the person is convicted of or is found to have committed a first violation of an out-of-service order while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver. A person is disqualified for a period of not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver.

(7) A person is disqualified from driving a commercial motor vehicle if a report has been received by the department under RCW

46.25.125 that the person has received a verified positive drug test or positive alcohol confirmation test as part of the testing program conducted under 49 C.F.R. 40. A disqualification under this subsection remains in effect until the person undergoes a drug and alcohol assessment by a substance abuse professional meeting the requirements of 49 C.F.R. 40, and the person presents evidence of satisfactory participation in or successful completion of a drug or alcohol treatment and/or education program as recommended by the substance abuse professional, and until the person has met the requirements of RCW 46.25.100. The substance abuse professional shall forward a diagnostic evaluation and treatment recommendation to the department of licensing for use in determining the person's eligibility for driving a commercial motor vehicle. Persons who are disqualified under this subsection more than twice in a five-year period are disqualified for life.

(8)(a) A person is disqualified from driving a commercial motor vehicle for the period of time specified in (b) of this subsection if he or she is convicted of or is found to have committed one of the following six offenses at a railroad-highway grade crossing while operating a commercial motor vehicle in violation of a federal, state, or local law or regulation:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement officer at the crossing;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(b) A person is disqualified from driving a commercial motor vehicle for a period of:

(i) Not less than sixty days if the driver is convicted of or is found to have committed a first violation of a railroad-highway grade crossing violation;

(ii) Not less than one hundred twenty days if the driver is convicted of or is found to have committed a second railroad-highway grade crossing violation in separate incidents within a three-year period;

(iii) Not less than one year if the driver is convicted of or is found to have committed a third or subsequent railroad-highway grade crossing violation in separate incidents within a three-year period.

(9) A person is disqualified from driving a commercial motor vehicle for not more than one year if a report has been received by the department from the federal motor carrier safety administration that the person's driving has been determined to constitute an imminent hazard as defined by 49 C.F.R. 383.5. A person who is simultaneously disqualified from driving a commercial motor vehicle under this subsection and under other provisions of this chapter, or under 49 C.F.R. 383.52, shall serve those disqualification periods concurrently.

(10) Within ten days after suspending, revoking, or canceling a commercial driver's license or disqualifying a driver from operating a commercial motor vehicle, the department shall update its records to reflect that action.

Sec. 5. RCW 46.32.100 and 2010 c 161 s 1116 are each amended to read as follows:

(1)(a) In addition to all other penalties provided by law, and except as provided otherwise in (a)(i), (ii), or (iii) of this subsection, a commercial motor vehicle that is subject to compliance reviews under this chapter and an officer, agent, or employee of a company operating a commercial motor vehicle who violates or who procures, aids, or abets in the violation of this title or any order or rule of the

state patrol is liable for a penalty of one hundred dollars for each violation.

(i) It is a violation of this chapter for a person operating a commercial motor vehicle to fail to comply with the requirements of 49 C.F.R. Pt. 382, controlled substances and alcohol use and testing, 49 C.F.R. Sec. 391.15, disqualification of drivers, and 49 C.F.R. Sec. 396.9(c)(2), moving a vehicle placed out of service before the out of service defects have been satisfactorily repaired. For each violation the person is liable for a penalty of five hundred dollars.

(ii) The driver of a commercial motor vehicle who ~~((violates))~~ is convicted of violating an out-of-service order is liable for a penalty of at least ~~((one))~~ two thousand ~~((one))~~ five hundred dollars ~~((but not more than two thousand seven hundred fifty dollars for each))~~ for a first violation, and not less than five thousand dollars for second or subsequent violation.

(iii) An employer who allows ~~((a driver to operate))~~ the operation of a commercial motor vehicle when there is an out-of-service order is liable for a penalty of at least two thousand seven hundred fifty dollars but not more than ~~((eleven))~~ twenty-five thousand dollars for each violation.

(iv) Each violation under this subsection (1)(a) is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(b) In addition to all other penalties provided by law, any motor carrier, company, or any officer or agent of a motor carrier or company operating a commercial motor vehicle subject to compliance reviews under this chapter who refuses entry or to make the required records, documents, and vehicles available to a duly authorized agent of the state patrol is liable for a penalty of at least five thousand dollars as well as an out-of-service order being placed on the department of transportation number, as defined in RCW 46.16A.010, and vehicle registration to operate. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(c) A motor carrier operating a commercial motor vehicle after receiving a final unsatisfactory rating or being placed out of service is liable for a penalty of not more than eleven thousand dollars for each violation. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(d) A high-risk carrier is liable for double the amount of the penalty of a prior violation if the high-risk carrier repeats the same violation during a follow-up compliance review. Each repeat violation is a separate and distinct offense, and in case of a repeat continuing violation every day's continuance is a separate and distinct violation.

(2) The Washington state patrol may place an out-of-service order on a department of transportation number, as defined in RCW 46.16A.010, for violations of this chapter or for nonpayment of any monetary penalties assessed by the state patrol or the utilities and transportation commission, as a result of compliance reviews, or for violations of cease and desist orders issued by the utilities and transportation commission. The state patrol shall notify the department of licensing when an out-of-service order has been placed on a motor carrier's department of transportation number. The state patrol shall notify the motor carrier when there has been an out-of-service order placed on the motor carrier's department of transportation number and the vehicle registrations have been revoked by sending a notice by first-class mail using the last known address for the registered or legal owner or owners, and recording the transmittal on an affidavit of first-class mail. Notices under this section fulfill the requirements of RCW 46.12.550. Motor carriers may not be eligible for a new department of transportation number, vehicle registration, or temporary permits to operate unless the violations that resulted in the out-of-service order have been corrected.

(3) Any penalty provided in this section is due and payable when the person incurring it receives a notice in writing from the state patrol describing the violation and advising the person that the penalty is due.

(a)(i) Any motor carrier who incurs a penalty as provided in this section, except for a high-risk carrier that incurs a penalty for a repeat violation during a follow-up compliance review, may, upon written application, request that the state patrol mitigate the penalty. An application for mitigation must be received by the state patrol within twenty days of the receipt of notice.

(ii) The state patrol may decline to consider any application for mitigation.

(b) Any motor carrier who incurs a penalty as provided in this section has a right to an administrative hearing under chapter 34.05 RCW to contest the violation or the penalty imposed, or both. In all such hearings, 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 later of (i) receipt of the notice imposing the penalty, or (ii) disposition of a request for mitigation, or the right to a hearing is waived.

(c) All penalties recovered under this section shall be paid into the state treasury and credited to the state patrol highway account of the motor vehicle fund.

Sec. 6. RCW 46.20.049 and 2005 c 314 s 309 are each amended to read as follows:

There shall be an additional fee for issuing any class of commercial driver's license in addition to the prescribed fee required for the issuance of the original driver's license. The additional fee for each class shall be ~~((thirty))~~ sixty-one dollars for the original commercial driver's license or subsequent renewals. If the commercial driver's license is renewed or extended for a period other than five years, the fee for each class shall be ~~((six))~~ twelve dollars and twenty cents for each year that the commercial driver's license is renewed or extended. The fee shall be deposited in the highway safety fund.

NEW SECTION. Sec. 7. Sections 1 through 3 of this act take effect January 30, 2012."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "certain commercial motor vehicle provisions; amending RCW 46.25.010, 46.25.090, 46.32.100, and 46.20.049; reenacting and amending RCW 46.25.080; adding a new section to chapter 46.25 RCW; prescribing penalties; and providing an effective date."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1229 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

Representative Parker spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of House Bill No. 1229, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1229, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 56; Nays, 41; Absent, 0; Excused, 1.

Voting yeas: Representatives Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jinkins, Kagi, Kelley, Kenney, Kirby, Ladenburg, Lias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Reykdal, Roberts, Rolfes, Ryu, Santos, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Wylie and Mr. Speaker.

Voting nays: Representatives Ahern, Alexander, Anderson, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Harris, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Overstreet, Parker, Pearson, Rivers, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh, Warnick, Wilcox and Zeiger.

Excused: Representative Crouse.

HOUSE BILL NO. 1229, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 21, 2011

Mr. Speaker:

The Senate receded from its amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1267. Under suspension of the rules, the bill was returned to second reading for purpose of amendment. The Senate adopted the following amendment and passed the bill as amended by the Senate:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 26.26.011 and 2002 c 302 s 102 are each amended to read as follows:

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

(1) "Acknowledged father" means a man who has established a father-child relationship under RCW 26.26.300 through 26.26.375.

(2) "Adjudicated ~~((father))~~ parent" means a ~~((man))~~ person who has been adjudicated by a court of competent jurisdiction to be the ~~((father))~~ parent of a child.

(3) "Alleged ~~((father))~~ parent" means a ~~((man))~~ person who alleges himself or herself to be, or is alleged to be, the genetic ~~((father))~~ parent or a possible genetic ~~((father))~~ parent of a child, but whose ~~((paternity))~~ parentage has not been determined. The term does not include:

(a) A presumed ~~((father))~~ parent;

(b) A ~~((man))~~ person whose parental rights have been terminated or declared not to exist; or

(c) A ~~((male))~~ donor.

(4) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse. The term includes:

(a) ~~((Intrauterine))~~ Artificial insemination;

(b) Donation of eggs;

(c) Donation of embryos;

(d) In vitro fertilization and transfer of embryos; and

(e) Intracytoplasmic sperm injection.

(5) "Child" means an individual of any age whose parentage may be determined under this chapter.

(6) "Commence" means to file the petition seeking an adjudication of parentage in a superior court of this state or to serve a summons and the petition.

(7) "Determination of parentage" means the establishment of the parent-child relationship by the signing of a valid acknowledgment of paternity under RCW 26.26.300 through 26.26.375 or adjudication by the court.

(8) "Domestic partner" means a state registered domestic partner as defined in chapter 26.60 RCW.

(9) "Donor" means an individual who ~~((produces eggs or spermused))~~ contributes a gamete or gametes for assisted reproduction, whether or not for consideration. The term does not include:

(a) A ~~((husband))~~ person who provides ~~((sperm, or a wife who provides eggs,))~~ a gamete or gametes to be used for assisted reproduction ~~((by the wife))~~ with his or her spouse or domestic partner; or

(b) A woman who gives birth to a child by means of assisted reproduction, except as otherwise provided in RCW 26.26.210 through 26.26.260 or 26.26.735.

~~((9))~~ (10) "Ethnic or racial group" means, for purposes of genetic testing, a recognized group that an individual identifies as all or part of ~~((his or her))~~ the individual's ancestry or that is so identified by other information.

~~((10))~~ (11) "Gamete" means either a sperm or an egg.

~~((11))~~ (12) "Genetic testing" means an analysis of genetic markers ~~((only))~~ to exclude or identify a man as the father or a woman as the mother of a child. The term includes an analysis of one or a combination of the following:

(a) Deoxyribonucleic acid; and

(b) Blood-group antigens, red-cell antigens, human-leukocyte antigens, serum enzymes, serum proteins, or red-cell enzymes.

~~((14))~~ (13) "Man" means a male individual of any age.

~~((12))~~ (14) "Parent" means an individual who has established a parent-child relationship under RCW 26.26.101.

~~((13))~~ (15) "Parent-child relationship" means the legal relationship between a child and a parent of the child. The term includes the mother-child relationship and the father-child relationship.

~~((14))~~ (16) "Parentage index" means the likelihood of ~~((paternity))~~ parentage calculated by computing the ratio between:

(a) The likelihood that the tested ~~((man))~~ person is the ~~((father))~~ parent, based on the genetic markers of the tested ~~((man))~~ person, ~~((mother))~~ genetic parent, and child, conditioned on the hypothesis that the tested ~~((man))~~ person is the ~~((father))~~ parent of the child; and

(b) The likelihood that the tested ~~((man))~~ person is not the ~~((father))~~ parent, based on the genetic markers of the tested ~~((man))~~ person, ~~((mother))~~ genetic parent, and child, conditioned on the hypothesis that the tested ~~((man))~~ person is not the ~~((father))~~ parent of the child and that the ~~((father))~~ parent is ~~((from))~~ of the same ethnic or racial group as the tested ~~((man))~~ person.

~~((15))~~ (17) "Physician" means a person licensed to practice medicine in a state.

~~((16))~~ (18) "Presumed ~~((father))~~ parent" means a ~~((man))~~ person who, by operation of law under RCW 26.26.116, is recognized ~~((to be))~~ as the ~~((father))~~ parent of a child until that status is rebutted or confirmed in a judicial proceeding.

~~((16))~~ (19) "Probability of ~~((paternity))~~ parentage" means the measure, for the ethnic or racial group to which the alleged ~~((father))~~ parent belongs, of the probability that the individual in question is the ~~((father))~~ parent of the child, compared with a random, unrelated ~~((man))~~ person of the same ethnic or racial group, expressed as a

percentage incorporating the ~~((paternity))~~ parentage index and a prior probability.

~~((17))~~ (20) "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.

~~((18))~~ (21) "Signatory" means an individual who authenticates a record and is bound by its terms.

~~((19))~~ (22) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory or insular possession subject to the jurisdiction of the United States, or an Indian tribe or band, or Alaskan native village, that is recognized by federal law or formally acknowledged by state law.

~~((20))~~ (23) "Support enforcement agency" means a public official or agency authorized to seek:

(a) Enforcement of support orders or laws relating to the duty of support;

(b) Establishment or modification of child support;

(c) Determination of parentage; or

(d) Location of child support obligors and their income and assets.

(24) "Fertility clinic" means a facility that provides assisted reproduction services or gametes to be used in assisted reproduction.

(25) "Genetic parent" means a person who is the source of the egg or sperm that produced the child. The term does not include a donor.

(26) "Identifying information" includes, but is not limited to, the following information of the gamete donor:

(a) The first and last name of the person; and

(b) The age of the person at the time of the donation.

Sec. 2. RCW 26.26.021 and 2002 c 302 s 103 are each amended to read as follows:

(1) This chapter ~~((governs every))~~ applies to determinations of parentage in this state.

(2) The court shall apply the law of this state to adjudicate the parent-child relationship. The applicable law does not depend on:

(a) The place of birth of the child; or

(b) The past or present residence of the child.

(3) This chapter does not create, enlarge, or diminish parental rights or duties under other law of this state.

(4) If a birth results under a surrogate parentage contract that is unenforceable under the law of this state, the parent-child relationship is determined as provided in RCW 26.26.101 through 26.26.116 and applicable case law.

Sec. 3. RCW 26.26.041 and 2002 c 302 s 105 are each amended to read as follows:

Proceedings under this chapter are subject to other laws of this state governing the health, safety, privacy, and liberty of a child or other individuals ~~((that))~~ who could be jeopardized by disclosure of identifying information, including the address, telephone number, place of employment, social security number, and the child's day-care facility and school.

Sec. 4. RCW 26.26.051 and 2002 c 302 s 106 are each amended to read as follows:

(1) The provisions relating to determination of ~~((paternity may be applied))~~ parentage apply to ~~((a))~~ determinations of maternity and paternity.

(2) The provisions in this chapter apply to persons in a domestic partnership to the same extent they apply to persons in a marriage, and apply to persons of the same sex who have children together to the same extent they apply to persons of the opposite sex who have children together.

Sec. 5. RCW 26.26.101 and 2002 c 302 s 201 are each amended to read as follows:

~~((1))~~ The ~~((mother-child))~~ parent-child relationship is established between a child and a man or woman by:

~~((a))~~ (1) The woman's having given birth to the child, except as otherwise provided in RCW 26.26.210 through 26.26.260;

~~((b))~~ (2) An adjudication of the ~~((woman's maternity))~~ person's parentage;

~~((c))~~ (3) Adoption of the child by the ~~((woman))~~ person;

~~((d))~~ (4) A valid surrogate parentage contract, under which the mother is an intended parent of the child, as provided in RCW 26.26.210 through 26.26.260; or

~~((e))~~ (5) An affidavit and physician's certificate in a form prescribed by the department of health wherein the donor of ~~((ovum))~~ eggs or surrogate gestation carrier sets forth her intent to be legally bound as the parent of a child or children born through ~~((alternative reproductive medical technology))~~ assisted reproduction by filing the affidavit and physician's certificate with the registrar of vital statistics within ten days after the date of the child's birth pursuant to RCW 26.26.735.

(2) The father-child relationship is established between a child and a man by:

(a);

~~((b))~~ (3) An un rebutted presumption of the ~~((man's paternity))~~ person's parentage of the child under RCW 26.26.116;

~~((c))~~ (4) The man's having signed an acknowledgment of paternity under RCW 26.26.300 through 26.26.375, unless the acknowledgment has been rescinded or successfully challenged;

~~((d))~~ An adjudication of the man's paternity;

~~((e))~~ Adoption of the child by the man;

~~((f))~~ (7) The ~~((man's))~~ person's having consented to assisted reproduction by his ~~((wife))~~ or her spouse or domestic partner under RCW 26.26.700 through 26.26.730 that resulted in the birth of the child; or

~~((g))~~ (8) A valid surrogate parentage contract, under which the ~~((father))~~ person asserting parentage is an intended parent of the child, as provided in RCW 26.26.210 through 26.26.260.

Sec. 6. RCW 26.26.106 and 2002 c 302 s 202 are each amended to read as follows:

A child born to parents who are not married to each other or in a domestic partnership with each other has the same rights under the law as a child born to parents who are married to each other or who are in a domestic partnership with each other.

Sec. 7. RCW 26.26.111 and 2002 c 302 s 203 are each amended to read as follows:

Unless parental rights are terminated, the parent-child relationship established under this chapter applies for all purposes, except as otherwise specifically provided by other law of this state.

Sec. 8. RCW 26.26.116 and 2002 c 302 s 204 are each amended to read as follows:

(1) In the context of a marriage or a domestic partnership, a ~~((man))~~ person is presumed to be the ~~((father))~~ parent of a child if:

(a) ~~((He))~~ The person and the mother or father of the child are married to each other or in a domestic partnership with each other and the child is born during the marriage or domestic partnership;

(b) ~~((He))~~ The person and the mother or father of the child were married to each other or in a domestic partnership with each other and the child is born within three hundred days after the marriage or domestic partnership is terminated by death, annulment, dissolution ~~((of marriage))~~, legal separation, or declaration of invalidity;

(c) Before the birth of the child, ~~((he))~~ the person and the mother or father of the child married each other or entered into a domestic partnership with each other in apparent compliance with law, even if the attempted marriage or domestic partnership is, or could be, declared invalid and the child is born during the invalid marriage or invalid domestic partnership or within three hundred days after its termination by death, annulment, dissolution ~~((of marriage))~~, legal separation, or declaration of invalidity; or

(d) After the birth of the child, ~~((he))~~ the person and the mother or father of the child have married each other or entered into a domestic

partnership with each other in apparent compliance with law, whether or not the marriage or domestic partnership is, or could be declared invalid, and ~~((he))~~ the person voluntarily asserted ~~((his paternity))~~ parentage of the child, and:

(i) The assertion is in a record filed with the state registrar of vital statistics;

(ii) The person agreed to be and is named as the child's ~~((father))~~ parent on the child's birth certificate; or

(iii) The person promised in a record to support the child as his or her own.

(2) A person is presumed to be the parent of a child if, for the first two years of the child's life, the person resided in the same household with the child and openly held out the child as his or her own.

(3) A presumption of ~~((paternity))~~ parentage established under this section may be rebutted only by an adjudication under RCW 26.26.500 through 26.26.630.

Sec. 9. RCW 26.26.130 and 2001 c 42 s 5 are each amended to read as follows:

(1) The judgment and order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(2) If the judgment and order of the court is at variance with the child's birth certificate, the court shall order that an amended birth certificate be issued.

(3) The judgment and order shall contain other appropriate provisions directed to the appropriate parties to the proceeding, concerning the duty of current and future support, the extent of any liability for past support furnished to the child if that issue is before the court, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment and order may direct ~~((the father))~~ one parent to pay the reasonable expenses of the mother's pregnancy and ~~((confinement))~~ childbirth. The judgment and order may include a continuing restraining order or injunction. In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(4) The judgment and order shall contain a provision that each party must file with the court and the Washington state child support registry and update as necessary the information required in the confidential information form required by RCW 26.23.050.

(5) Support judgment and orders shall be for periodic payments which may vary in amount. The court may limit the ~~((father's))~~ parent's liability for the past support to the child to the proportion of the expenses already incurred as the court deems just. The court shall not limit or affect in any manner the right of nonparties including the state of Washington to seek reimbursement for support and other services previously furnished to the child.

(6) After considering all relevant factors, the court shall order either or both parents to pay an amount determined pursuant to the schedule and standards contained in chapter 26.19 RCW.

(7) On the same basis as provided in chapter 26.09 RCW, the court shall make residential provisions with regard to minor children of the parties, except that a parenting plan shall not be required unless requested by a party. If a parenting plan or residential schedule was not entered at the time the order establishing parentage was entered, a parent may move the court for entry of a parenting plan or residential schedule:

(a) By filing a motion and proposed parenting plan or residential schedule and providing notice to the other parent and other persons who have residential time with the child pursuant to a court order: PROVIDED, That at the time of filing the motion less than twenty-four months have passed since entry of the order establishing parentage and that the proposed parenting plan or residential schedule does not change the designation of the parent with whom the child spends the majority of time; or

(b) By filing a petition for modification under RCW 26.09.260 or

petition to establish a parenting plan, residential schedule, or residential provisions.

(8) In any dispute between the ~~((natural parents))~~ persons claiming parentage of a child and a person or persons who have (a) commenced adoption proceedings or who have been granted an order of adoption, and (b) pursuant to a court order, or placement by the department of social and health services or by a licensed agency, have had actual custody of the child for a period of one year or more before court action is commenced by the ~~((natural parent or parents))~~ persons claiming parentage, the court shall consider the best welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody.

(9) In entering an order under this chapter, the court may issue any necessary continuing restraining orders, including the restraint provisions of domestic violence protection orders under chapter 26.50 RCW or antiharassment protection orders under chapter 10.14 RCW.

(10) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(11) The court shall order that any restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

(12) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

Sec. 10. RCW 26.26.150 and 1994 c 230 s 16 are each amended to read as follows:

(1) If existence of the ~~((father))~~ parent and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this chapter or under prior law, the obligation of the ~~((father))~~ parent may be enforced in the same or other proceedings by the ~~((mother))~~ other parent, the child, the state of Washington, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, ~~((confinement))~~ childbirth, education, support, or funeral, or by any other person, including a private agency, to the extent he or she has furnished or is furnishing these expenses.

(2) The court shall order support payments to be made to the Washington state support registry, or the person entitled to receive the payments under an alternate arrangement approved by the court as provided in RCW 26.23.050(2).

(3) All remedies for the enforcement of judgments apply.

Sec. 11. RCW 26.26.300 and 2002 c 302 s 301 are each amended to read as follows:

The mother of a child and a man claiming to be the genetic father of the child ~~((conceived as the result of his sexual intercourse with the mother))~~ may sign an acknowledgment of paternity with intent to establish the man's paternity.

Sec. 12. RCW 26.26.305 and 2002 c 302 s 302 are each amended to read as follows:

(1) An acknowledgment of paternity must:

(a) Be in a record;

(b) Be signed under penalty of perjury by the mother and by the man seeking to establish his paternity;

(c) State that the child whose paternity is being acknowledged:

(i) Does not have a presumed father, or has a presumed father whose full name is stated; and

(ii) Does not have another acknowledged or adjudicated father;

(d) State whether there has been genetic testing and, if so, that the acknowledging man's claim of paternity is consistent with the results of the genetic testing; and

(e) State that the signatories understand that the acknowledgment is the equivalent of a judicial adjudication of paternity of the child and that a challenge to the acknowledgment is permitted only under limited circumstances and is barred after two years, except as provided in RCW 26.26.330.

(2) An acknowledgment of paternity is void if it:

(a) States that another man is a presumed father, unless a denial of paternity signed by the presumed father is filed with the state registrar of vital statistics;

(b) States that another man is an acknowledged or adjudicated father; or

(c) Falsely denies the existence of a presumed, acknowledged, or adjudicated father of the child.

(3) A presumed father may sign an acknowledgment of paternity.

Sec. 13. RCW 26.26.310 and 2002 c 302 s 303 are each amended to read as follows:

A presumed father of a child may sign a denial of his paternity.

The denial is valid only if:

(1) An acknowledgment of paternity signed by another man is filed under RCW 26.26.320;

(2) The denial is in a record, and is signed under penalty of perjury; and

(3) The presumed father has not previously:

(a) Acknowledged his paternity, unless the previous acknowledgment has been rescinded under RCW 26.26.330 or successfully challenged under RCW 26.26.335; or

(b) Been adjudicated to be the father of the child.

Sec. 14. RCW 26.26.315 and 2002 c 302 s 304 are each amended to read as follows:

(1) An acknowledgment of paternity and a denial of paternity may be contained in a single document or may be signed in counterparts, and may be filed separately or simultaneously. If the acknowledgment and denial are both necessary, neither is valid until both are filed.

(2) An acknowledgment of paternity or a denial of paternity may be signed before the birth of the child.

(3) Subject to subsection (1) of this section, an acknowledgment and denial of paternity, if any, take effect on the birth of the child or the filing of the document with the state registrar of vital statistics, whichever occurs later.

(4) An acknowledgment or denial of paternity signed by a minor is valid if it is otherwise in compliance with this chapter. An acknowledgment or denial of paternity signed by a minor may be rescinded under RCW 26.26.330.

Sec. 15. RCW 26.26.320 and 2002 c 302 s 305 are each amended to read as follows:

(1) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a valid acknowledgment of paternity filed with the state registrar of vital statistics is equivalent to an adjudication of ~~((paternity))~~ parentage of a child and confers upon the acknowledged father all of the rights and duties of a parent.

(2) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a valid denial of paternity filed with the state registrar of

vital statistics in conjunction with a valid acknowledgment of paternity is equivalent to an adjudication of the nonpaternity of the presumed father and discharges the presumed father from all of the rights and duties of a parent.

Sec. 16. RCW 26.26.330 and 2004 c 111 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a signatory may rescind an acknowledgment or denial of paternity by commencing a court proceeding to rescind before the earlier of:

~~((4))~~ (a) Sixty days after the effective date of the acknowledgment or denial, as provided in RCW 26.26.315; or

~~((2))~~ (b) The date of the first hearing in a proceeding to which the signatory is a party before a court to adjudicate an issue relating to the child, including a proceeding that establishes support.

(2) If the signatory to an acknowledgment or denial of paternity was a minor when he signed the acknowledgment or denial, the signatory may rescind the acknowledgment or denial of paternity by commencing a court proceeding to rescind on or before the signatory's nineteenth birthday.

Sec. 17. RCW 26.26.335 and 2002 c 302 s 308 are each amended to read as follows:

(1) After the period for rescission under RCW 26.26.330 has ~~((elapsed))~~ expired, a signatory of an acknowledgment or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only:

(a) On the basis of fraud, duress, or material mistake of fact; and

(b) Within ~~((two))~~ four years after the acknowledgment or denial is filed with the state registrar of vital statistics. In actions commenced more than two years after the birth of the child, the child must be made a party to the action.

(2) A party challenging an acknowledgment or denial of paternity has the burden of proof.

Sec. 18. RCW 26.26.340 and 2002 c 302 s 309 are each amended to read as follows:

(1) Every signatory to an acknowledgment ~~((of))~~ of paternity and any related denial of paternity must be made a party to a proceeding to rescind or challenge the acknowledgment or denial.

(2) For the purpose of rescission of, or challenge to, an acknowledgment or denial of paternity, a signatory submits to personal jurisdiction of this state by signing the acknowledgment or denial, effective upon the filing of the document with the state registrar of vital statistics.

(3) Except for good cause shown, during the pendency of a proceeding to rescind or challenge an acknowledgment or denial of paternity, the court may not suspend the legal responsibilities of a signatory arising from ~~((an))~~ the acknowledgment, including the duty to pay child support.

(4) A proceeding to rescind or to challenge an acknowledgment or denial of paternity must be conducted in the same manner as a proceeding to adjudicate parentage under RCW 26.26.500 through 26.26.630.

(5) At the conclusion of a proceeding to rescind or challenge an acknowledgment or denial of paternity, the court shall order the state registrar of vital statistics to amend the birth record of the child, if appropriate.

Sec. 19. RCW 26.26.360 and 2002 c 302 s 313 are each amended to read as follows:

The state registrar of vital statistics may release information relating to the acknowledgment or denial of paternity ~~((, not expressly sealed under a court order,))~~ to: (1) A signatory of the acknowledgment or denial ~~((or their attorneys of record));~~ (2) the courts of this or any other state; (3) the agencies of this or any other state operating a child support program under Title IV-D of the social security act; ~~((of))~~ and (4) the agencies of this or any other state involved in a dependency determination for a child named in the acknowledgment or denial of paternity.

Sec. 20. RCW 26.26.375 and 2002 c 302 s 316 are each amended to read as follows:

(1) After the period for rescission of an acknowledgment of paternity provided in RCW 26.26.330 has passed, a parent executing an acknowledgment of paternity of the child named therein may commence a judicial proceeding for:

(a) Making residential provisions or a parenting plan with regard to the minor child on the same basis as provided in chapter 26.09 RCW; or

(b) Establishing a child support obligation under chapter 26.19 RCW and maintaining health insurance coverage under RCW 26.09.105.

(2) Pursuant to RCW 26.09.010(3), a proceeding authorized by this section shall be ~~((entitled))~~ entitled "In re the parenting and support of...."

(3) Before the period for a challenge to the acknowledgment or denial of paternity has elapsed under RCW 26.26.335, the petitioner must specifically allege under penalty of perjury, to the best of the petitioner's knowledge, that: (a) No man other than the man who executed the acknowledgment of paternity is the father of the child; (b) there is not currently pending a proceeding to adjudicate the parentage of the child or that another man is adjudicated the child's father; and (c) the petitioner has provided notice of the proceeding to any other men who have claimed parentage of the child. Should the respondent or any other person appearing in the action deny the allegations, a permanent parenting plan or residential schedule may not be entered for the child without the matter being converted to a proceeding to challenge the acknowledgment of paternity under RCW 26.26.335 and 26.26.340. A copy of the acknowledgment of paternity or the birth certificate issued by the state in which the child was born must be filed with the petition or response. The court may convert the matter to a proceeding to challenge the acknowledgment on its own motion.

Sec. 21. RCW 26.26.400 and 2002 c 302 s 401 are each amended to read as follows:

RCW 26.26.405 through 26.26.450 govern genetic testing of an individual ~~((only))~~ to determine parentage, whether the individual:

(1) Voluntarily submits to testing; or

(2) Is tested pursuant to an order of the court or a support enforcement agency.

Sec. 22. RCW 26.26.405 and 2002 c 302 s 402 are each amended to read as follows:

(1) Except as otherwise provided in this section and RCW 26.26.410 through 26.26.630, the court shall order the child and other designated individuals to submit to genetic testing if the request for testing is supported by the sworn statement of a party to the proceeding:

(a) Alleging paternity and stating facts establishing a reasonable probability of the requisite sexual contact between the individuals; or

(b) Denying paternity and stating facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child.

(2) A support enforcement agency may order genetic testing only if there is no presumed ~~((, acknowledged,))~~ or adjudicated ~~((father))~~ parent and no acknowledged father.

(3) If a request for genetic testing of a child is made before birth, the court or support enforcement agency may not order in utero testing.

(4) If two or more ~~((men))~~ persons are subject to court-ordered genetic testing, the testing may be ordered concurrently or sequentially.

(5) This section does not apply when the child was conceived through assisted reproduction.

Sec. 23. RCW 26.26.410 and 2002 c 302 s 403 are each amended to read as follows:

(1) Genetic testing must be of a type reasonably relied upon by experts in the field of genetic testing and performed in a testing laboratory accredited by:

(a) The American association of blood banks, or a successor to its functions;

(b) The American society for histocompatibility and immunogenetics, or a successor to its functions; or

(c) An accrediting body designated by the United States secretary of health and human services.

(2) A specimen used in genetic testing may consist of one or more samples or a combination of samples of blood, buccal cells, bone, hair, or other body tissue or fluid. The specimen used in the testing need not be of the same kind for each individual undergoing genetic testing.

(3) Based on the ethnic or racial group of an individual, the testing laboratory shall determine the databases from which to select frequencies for use in ~~((the))~~ calculation ~~((s))~~ of the probability of parentage. If there is disagreement as to the testing laboratory's choice, the following rules apply:

(a) The individual objecting may require the testing laboratory, within thirty days after receipt of the report of the test, to recalculate the probability of ~~((paternity))~~ parentage using an ethnic or racial group different from that used by the laboratory.

(b) The individual objecting to the testing laboratory's initial choice shall:

(i) If the frequencies are not available to the testing laboratory for the ethnic or racial group requested, provide the requested frequencies compiled in a manner recognized by accrediting bodies; or

(ii) Engage another testing laboratory to perform the calculations.

(c) The testing laboratory may use its own statistical estimate if there is a question regarding which ethnic or racial group is appropriate. If available, the testing laboratory shall calculate the frequencies using statistics for any other ethnic or racial group requested.

(4) If, after recalculation using a different ethnic or racial group, genetic testing does not rebuttably identify a ~~((man))~~ person as the ~~((father))~~ parent of a child under RCW 26.26.420, an individual who has been tested may be required to submit to additional genetic testing.

Sec. 24. RCW 26.26.420 and 2002 c 302 s 405 are each amended to read as follows:

(1) Under this chapter, a ~~((man))~~ person is rebuttably identified as the ~~((father))~~ parent of a child if the genetic testing complies with this section and RCW 26.26.400 through 26.26.415 and 26.26.425 through 26.26.450 and the results disclose that:

(a) The ~~((man))~~ person has at least a ninety-nine percent probability of ~~((paternity))~~ parentage, using a prior probability of 0.50, as calculated by using the combined ~~((paternity))~~ parentage index obtained in the testing; and

(b) A combined ~~((paternity))~~ parentage index of at least one hundred to one.

(2) A ~~((man))~~ person identified under subsection (1) of this section as the ~~((father))~~ parent of the child may rebut the genetic testing results only by other genetic testing satisfying the requirements of this section and RCW 26.26.400 through 26.26.415 and 26.26.425 through 26.26.450 which:

(a) Excludes the ~~((man))~~ person as a genetic ~~((father))~~ parent of the child; or

(b) Identifies another ~~((man))~~ person as the ~~((father))~~ parent of the child.

(3) Except as otherwise provided in RCW 26.26.445, if more than one man is identified by genetic testing as the possible father of the child, the court shall order them to submit to further genetic testing to identify the genetic ~~((father))~~ parent.

(4) This section does not apply when the child was conceived through assisted reproduction.

Sec. 25. RCW 26.26.425 and 2002 c 302 s 406 are each amended to read as follows:

(1) Subject to assessment of costs under RCW 26.26.500 through 26.26.630, the cost of initial genetic testing must be advanced:

- (a) By a support enforcement agency in a proceeding in which the support enforcement agency is providing services;
- (b) By the individual who made the request;
- (c) As agreed by the parties; or
- (d) As ordered by the court.

(2) In cases in which the cost is advanced by the support enforcement agency, the agency may seek reimbursement from a ~~((man))~~ person who is rebuttably identified as the ~~((father))~~ parent.

Sec. 26. RCW 26.26.430 and 2002 c 302 s 407 are each amended to read as follows:

(1) The court or the support enforcement agency shall order additional genetic testing upon the request of a party who contests the result of the original testing. If the previous genetic testing identified a ~~((man))~~ person as the ~~((father))~~ parent of the child under RCW 26.26.420, the court or agency may not order additional testing unless the party provides advance payment for the testing.

(2) This section does not apply when the child was conceived through assisted reproduction.

Sec. 27. RCW 26.26.435 and 2002 c 302 s 408 are each amended to read as follows:

(1) If a genetic testing specimen is not available from a man who may be the father of a child, for good cause and under circumstances the court considers to be just, a court may order the following individuals to submit specimens for genetic testing:

- (a) The parents of the man;
- (b) Brothers and sisters of the man;
- (c) Other children of the man and their mothers; and
- (d) Other relatives of the man necessary to complete genetic testing.

(2) If a specimen from the mother of a child is not available for genetic testing, the court may order genetic testing to proceed without a specimen from the mother.

(3) Issuance of an order under this section requires a finding that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

(4) This section does not apply when the child was conceived through assisted reproduction.

Sec. 28. RCW 26.26.445 and 2002 c 302 s 410 are each amended to read as follows:

(1) The court may order genetic testing of a brother of a man identified as the father of a child if the man is commonly believed to have an identical brother and evidence suggests that the brother may be the genetic father of the child.

(2) If ~~((genetic testing excludes none of the brothers as the genetic father, and))~~ each brother satisfies the requirements as the identified father of the child under RCW 26.26.420 without consideration of another identical brother being identified as the father of the child, the court may rely on nongenetic evidence to adjudicate which brother is the father of the child.

Sec. 29. RCW 26.26.505 and 2002 c 302 s 502 are each amended to read as follows:

Subject to RCW 26.26.300 through 26.26.375, 26.26.530, and 26.26.540, a proceeding to adjudicate parentage may be maintained by:

- (1) The child;
- (2) The ~~((mother-of))~~ person who has established a parent-child relationship with the child;
- (3) A ~~((man))~~ person whose ~~((paternity))~~ parentage of the child is to be adjudicated;
- (4) The division of child support;
- (5) An authorized adoption agency or licensed child-placing agency;

(6) A representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor; or

(7) An intended parent under a surrogate parentage contract, as provided in RCW 26.26.210 through 26.26.260.

Sec. 30. RCW 26.26.510 and 2002 c 302 s 503 are each amended to read as follows:

The following individuals must be joined as parties in a proceeding to adjudicate parentage:

(1) The ~~((mother))~~ parent of the child who has established a parent-child relationship with the child;

(2) A ~~((man))~~ person whose ~~((paternity))~~ parentage of the child is to be adjudicated; ~~((and))~~

(3) An intended parent under a surrogate parentage contract, as provided in RCW 26.26.210 through 26.26.260; and

26.26.720.

Sec. 31. RCW 26.26.525 and 2002 c 302 s 506 are each amended to read as follows:

A proceeding to adjudicate the parentage of a child having no presumed ~~((acknowledged))~~ or adjudicated ~~((father))~~ second parent and no acknowledged father may be commenced at any time during the life of the child, even after:

- (1) The child becomes an adult ; or
- (2) An earlier proceeding to adjudicate ~~((paternity))~~ parentage has been dismissed based on the application of a statute of limitation then in effect.

Sec. 32. RCW 26.26.530 and 2002 c 302 s 507 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a proceeding brought by a presumed ~~((father))~~ parent, the ~~((mother))~~ person with a parent-child relationship with the child, or another individual to adjudicate the parentage of a child having a presumed ~~((father))~~ parent must be commenced not later than ~~((two))~~ four years after the birth of the child. If an action is commenced more than two years after the birth of the child, the child must be made a party to the action.

(2) A proceeding seeking to disprove the ~~((father-child))~~ parent-child relationship between a child and the child's presumed ~~((father))~~ parent may be maintained at any time if the court determines that ~~((a))~~ the presumed ((father)) parent and the ((mother-of)) person who has a parent-child relationship with the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception ~~((and~~ the presumed father never openly treated the child as his own)) and the presumed parent never held out the child as his or her own.

Sec. 33. RCW 26.26.535 and 2002 c 302 s 508 are each amended to read as follows:

(1) In a proceeding to adjudicate parentage under circumstances described in RCW 26.26.530 or in RCW 26.26.540, a court may deny a motion seeking an order for genetic testing of the mother or father, the child, and the presumed or acknowledged father if the court determines that:

- (a) (i) The conduct of the mother or father or the presumed ((father)) or acknowledged parent estops that party from denying parentage; and
~~((b))~~ (ii) It would be inequitable to disprove the ((father-child)) parent-child relationship between the child and the presumed ((father)) or acknowledged parent; or

(b) The child was conceived through assisted reproduction.

(2) In determining whether to deny a motion to seek an order for genetic testing under subsection (1)(a) of this section, the court shall consider the best interest of the child, including the following factors:

- (a) The length of time between the proceeding to adjudicate parentage and the time that the presumed ~~((father))~~ or acknowledged

parent was placed on notice that he or she might not be the genetic ~~((father))~~ parent;

(b) The length of time during which the presumed ~~((father))~~ or acknowledged parent has assumed the role of ~~((father))~~ parent of the child;

(c) The facts surrounding the presumed ~~((father's))~~ or acknowledged parent's discovery of his or her possible ~~((nonpaternity))~~ nonparentage;

(d) The nature of the ~~((father-child))~~ relationship between the child and the presumed or acknowledged parent;

(e) The age of the child;

(f) The harm ~~((to the child which))~~ that may result to the child if ~~((presumed paternity))~~ parentage is successfully disproved;

(g) The nature of the relationship ~~((of))~~ between the child ~~((to))~~ and any alleged ~~((father))~~ parent;

(h) The extent to which the passage of time reduces the chances of establishing the ~~((paternity))~~ parentage of another ~~((man))~~ person and a child support obligation in favor of the child; and

(i) Other factors that may affect the equities arising from the disruption of the ~~((father-child))~~ parent-child relationship between the child and the presumed ~~((father))~~ or acknowledged parent or the chance of other harm to the child.

(3) In a proceeding involving the application of this section, ~~((the))~~ a minor or incapacitated child must be represented by a guardian ad litem.

(4) A denial of a motion seeking an order for genetic testing under subsection (1)(a) of this section must be based on clear and convincing evidence.

(5) If the court denies a motion seeking an order for genetic testing under subsection (1)(a) of this section, it shall issue an order adjudicating the presumed ~~((father))~~ or acknowledged parent to be the ~~((father))~~ parent of the child.

Sec. 34. RCW 26.26.540 and 2002 c 302 s 509 are each amended to read as follows:

(1) If a child has an acknowledged father, a signatory to the acknowledgment or denial of paternity must commence any proceeding seeking to rescind the acknowledgment or denial or challenge the paternity of ~~((that))~~ the child only within the time allowed under RCW 26.26.330 or 26.26.335.

(2) If a child has an acknowledged father or an adjudicated ~~((father))~~ parent, an individual, other than the child, who is neither a signatory to the acknowledgment nor a party to the adjudication and who seeks an adjudication of ~~((paternity))~~ parentage of the child must commence a proceeding not later than ~~((two))~~ four years after the effective date of the acknowledgment or adjudication. If an action is commenced more than two years after the birth of the child, the child must be made a party to the action.

(3) A proceeding under this section is subject to RCW 26.26.535.

Sec. 35. RCW 26.26.545 and 2002 c 302 s 510 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a proceeding to adjudicate parentage may be joined with a proceeding for: Adoption or termination of parental rights under chapter 26.33 RCW; determination of a parenting plan, child support, annulment, dissolution of marriage, dissolution of a domestic partnership, or legal separation under chapter 26.09 or 26.19 RCW; or probate or administration of an estate under chapter 11.48 or 11.54 RCW, or other appropriate proceeding.

(2) A respondent may not join ~~((the))~~ a proceeding(s) described in subsection (1) of this section with a proceeding to adjudicate parentage brought under chapter 26.21 RCW.

Sec. 36. RCW 26.26.550 and 2002 c 302 s 511 are each amended to read as follows:

~~((Although))~~ A proceeding to ~~((determine))~~ adjudicate parentage may be commenced before the birth of the child, ~~((the proceeding))~~

but may not be concluded until after the birth of the child. The following actions may be taken before the birth of the child:

(1) Service of process;

(2) Discovery;

(3) Except as prohibited by RCW 26.26.405, collection of specimens for genetic testing; and

(4) Temporary orders authorized under RCW 26.26.590.

Sec. 37. RCW 26.26.555 and 2002 c 302 s 512 are each amended to read as follows:

(1) Unless specifically required under other provisions of this chapter, a minor child is a permissible party, but is not a necessary party to a proceeding under RCW 26.26.500 through 26.26.630.

(2) If ~~((the))~~ a minor or incapacitated child is a party, or if the court finds that the interests of ~~((a minor child or incapacitated))~~ the child are not adequately represented, the court shall appoint a guardian ad litem to represent the child, subject to RCW 74.20.310 ~~((neither the child's mother or father)).~~ A parent of the child may not represent the child as guardian or ~~((otherwise))~~ in any other capacity.

Sec. 38. RCW 26.26.570 and 2002 c 302 s 521 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, a record of a genetic testing expert is admissible as evidence of the truth of the facts asserted in the report unless a party objects to its admission within fourteen days after its receipt by the objecting party and cites specific grounds for exclusion. The admissibility of the report is not affected by whether the testing was performed:

(a) Voluntarily or under an order of the court or a support enforcement agency; or

(b) Before or after the commencement of the proceeding.

(2) A party objecting to the results of genetic testing may call one or more genetic testing experts to testify in person or by telephone, videoconference, deposition, or another method approved by the court. Unless otherwise ordered by the court, the party offering the testimony bears the expense for the expert testifying.

(3) If a child has a presumed~~((acknowledged))~~ or adjudicated ~~((father))~~ parent or an acknowledged father, the results of genetic testing are inadmissible to adjudicate parentage unless performed:

(a) With the consent of both the ~~((mother))~~ person with a parent-child relationship with the child and the presumed~~((acknowledged))~~ or adjudicated ~~((father))~~ parent or an acknowledged father; or

(b) Under an order of the court under RCW 26.26.405.

(4) Copies of bills for genetic testing and for prenatal and postnatal health care for the mother and child that are furnished to the adverse party not less than ten days before the date of a hearing are admissible to establish:

(a) The amount of the charges billed; and

(b) That the charges were reasonable, necessary, and customary.

Sec. 39. RCW 26.26.575 and 2002 c 302 s 522 are each amended to read as follows:

(1) An order for genetic testing is enforceable by contempt.

(2) If an individual whose paternity is being determined declines to submit to genetic testing ~~((as))~~ ordered by the court, the court for that reason may ~~((on that basis))~~ adjudicate parentage contrary to the position of that individual.

(3) Genetic testing of the mother of a child is not a condition precedent to testing the child and a man whose paternity is being determined. If the mother is unavailable or declines to submit to genetic testing, the court may order the testing of the child and every man whose paternity is being adjudicated.

(4) This section does not apply when the child was conceived through assisted reproduction.

Sec. 40. RCW 26.26.585 and 2002 c 302 s 523 are each amended to read as follows:

(1) A respondent in a proceeding to adjudicate parentage may admit to the paternity of a child by filing a pleading to that effect or

by admitting paternity under penalty of perjury when making an appearance or during a hearing.

(2) If the court finds that the admission of paternity (~~(was made under)~~) satisfies the requirements of this section and finds that there is no reason to question the admission, the court shall issue an order adjudicating the child to be the child of the man admitting paternity.

Sec. 41. RCW 26.26.590 and 2002 c 302 s 524 are each amended to read as follows:

This section applies to any proceeding under RCW 26.26.500 through 26.26.630.

(1) The court shall issue a temporary order for support of a child if the individual ordered to pay support:

(a) Is a presumed (~~(father)~~) parent of the child;

(b) Is petitioning to have his (~~(paternity)~~) or her parentage adjudicated or has admitted (~~(paternity)~~) parentage in pleadings filed with the court;

(c) Is identified as the father through genetic testing under RCW 26.26.420;

(d) Has declined to submit to genetic testing but is shown by clear and convincing evidence to be the father of the child; or

(e) Is (~~(the mother of)~~) a person who has established a parent-child relationship with the child.

(2) A temporary order may, on the same basis as provided in chapter 26.09 RCW, make residential provisions with regard to minor children of the parties, except that a parenting plan is not required unless requested by a parent.

(3) Any party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any party from:

(a) Molesting or disturbing the peace of another party;

(b) Going onto the grounds of or entering the home, workplace, or school of another party or the day care or school of any child;

(c) Knowingly coming within, or knowingly remaining within, a specified distance from a specified location; and

(d) Removing a child from the jurisdiction of the court.

(4) Either party may request a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW on a temporary basis. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080. Ex parte orders issued under this subsection shall be effective for a fixed period not to exceed fourteen days, or upon court order, not to exceed twenty-four days if necessary to ensure that all temporary motions in the case can be heard at the same time.

(5) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(6) The court shall order that any temporary restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

(7) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

(8) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(9) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances. In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(10) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final order is entered or when the petition is dismissed; and

(d) May be entered in a proceeding for the modification of an existing order.

(11) A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding.

Sec. 42. RCW 26.26.600 and 2002 c 302 s 531 are each amended to read as follows:

The court shall apply the following rules to adjudicate the (~~(paternity)~~) parentage of a child:

(1) Except as provided in subsection (5) of this section, the (~~(paternity)~~) parentage of a child having a presumed (~~(acknowledged)~~) or adjudicated (~~(father)~~) parent or an acknowledged father may be disproved only by admissible results of genetic testing excluding that (~~(man)~~) person as the (~~(father)~~) parent of the child or identifying another man (~~(to be)~~) as the father of the child.

(2) Unless the results of genetic testing are admitted to rebut other results of genetic testing, the man identified as the father of the child under RCW 26.26.420 must be adjudicated the father of the child.

(3) If the court finds that genetic testing under RCW 26.26.420 neither identifies nor excludes a man as the father of a child, the court may not dismiss the proceeding. In that event, the results of genetic testing, (~~(along with)~~) and other evidence, are admissible to adjudicate the issue of paternity.

(4) Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man excluded as the father of a child by genetic testing must be adjudicated not to be the father of the child.

(5) Subsections (1) through (4) of this section do not apply when the child was conceived through assisted reproduction. The parentage of a child conceived through assisted reproduction may be disproved only by admissible evidence showing the intent of the presumed, acknowledged, or adjudicated parent and the other parent.

Sec. 43. RCW 26.26.620 and 2002 c 302 s 535 are each amended to read as follows:

The court may issue an order dismissing a proceeding commenced under this chapter for want of prosecution only without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is void and ((may be challenged in another judicial or an administrative proceeding)) has only the effect of a dismissal without prejudice.

Sec. 44. RCW 26.26.625 and 2002 c 302 s 536 are each amended to read as follows:

(1) The court shall issue an order adjudicating whether a ((man)) person alleged or claiming to be the ((father)) parent is the parent of the child.

(2) An order adjudicating parentage must identify the child by name and age.

(3) Except as otherwise provided in subsection (4) of this section, the court may assess filing fees, reasonable attorneys' fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in a proceeding under this section and RCW 26.26.500 through 26.26.620 and 26.26.630. The court may award attorneys' fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.

(4) The court may not assess fees, costs, or expenses against the support enforcement agency of this state or another state, except as provided by other law.

(5) On request of a party and for good cause shown, the court may order that the name of the child be changed.

(6) If the order of the court is at variance with the child's birth certificate, the court shall order the state registrar of vital statistics to issue an amended birth certificate.

Sec. 45. RCW 26.26.630 and 2002 c 302 s 537 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a determination of parentage is binding on:

(a) All signatories to an acknowledgment or denial of paternity as provided in RCW 26.26.300 through 26.26.375; and

(b) All parties to an adjudication by a court acting under circumstances that satisfy the jurisdictional requirements of RCW ((26.21.075)) 26.21A.100.

(2) A child is not bound by a determination of parentage under this chapter unless:

(a) The determination was based on an unrescinded acknowledgment of paternity and the acknowledgment of paternity is consistent with the results of the genetic testing;

(b) The adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown, or in the case of a child conceived through assisted reproduction, the adjudication of parentage was based on evidence showing the intent of the parents; or

(c) The child was a party or was represented in the proceeding determining parentage by a guardian ad litem.

(3) In a proceeding to dissolve a marriage or domestic partnership, the court is deemed to have made an adjudication of the parentage of a child if the court acts under circumstances that satisfy the jurisdictional requirements of RCW ((26.21.075)) 26.21A.100, and the final order:

(a) Expressly identifies a child as a "child of the marriage," "issue of the marriage," "child of the domestic partnership," "issue of the domestic partnership," or similar words indicating that the ((husband is the father)) spouses in the marriage or domestic partners in the domestic partnership are the parents of the child; or

(b) Provides for support of the child by one or both of the ((husband)) spouses or domestic partners unless ((paternity)) parentage is specifically disclaimed in the order.

(4) Except as otherwise provided in subsection (2) of this section, a determination of parentage may be a defense in a subsequent

proceeding seeking to adjudicate parentage by an individual who was not a party to the earlier proceeding.

(5) A party to an adjudication of ((paternity)) parentage may challenge the adjudication only under law of this state relating to appeal, vacation of judgments, ((and)) or other judicial review.

Sec. 46. RCW 26.26.705 and 2002 c 302 s 602 are each amended to read as follows:

A donor is not a parent of a child conceived by means of assisted reproduction, unless otherwise agreed in a signed record by the donor and the person or persons intending to be parents of a child conceived through assisted reproduction.

Sec. 47. RCW 26.26.710 and 2002 c 302 s 603 are each amended to read as follows:

((If a husband provides sperm for, or consents to, assisted reproduction by his wife as provided in RCW 26.26.715, he is the father of a resulting child born to his wife.)) A person who provides gametes for, or consents in a signed record to assisted reproduction with another person, with the intent to be the parent of the child born, is the parent of the resulting child.

Sec. 48. RCW 26.26.715 and 2002 c 302 s 604 are each amended to read as follows:

(1) ((A consent to assisted reproduction by a married woman must be in a record signed by the woman and her husband.)) Consent by a couple who intend to be parents of a child conceived by assisted reproduction must be in a record signed by both persons. This requirement does not apply to ((the donation of eggs for assisted reproduction by another woman)) a donor.

(2) Failure of the ((husband)) person to sign a consent required by subsection (1) of this section, before or after birth of the child, does not preclude a finding ((that the husband is the father of a child born to his wife if the wife and husband openly treated)) of parentage if the persons resided together in the same household with the child and openly held out the child as their own.

Sec. 49. RCW 26.26.720 and 2002 c 302 s 605 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, ((the husband of a wife)) a spouse or domestic partner of a woman who gives birth to a child by means of assisted reproduction, or a spouse or domestic partner of a man who has a child by means of assisted reproduction, may not challenge his ((paternity)) or her parentage of the child unless:

(a) Within ((two)) four years after learning of the birth of the child ((he)) the person commences a proceeding to adjudicate his ((paternity)) or her parentage. In actions commenced more than two years after the birth of the child, the child must be made a party to the action; and

(b) The court finds that ((he)) the person did not consent to the assisted reproduction, before or after birth of the child.

(2) A proceeding to adjudicate ((paternity)) parentage may be maintained at any time if the court determines that:

(a) The ((husband)) spouse or domestic partner did not provide ((sperm)) gametes for, or before or after the birth of the child consent to, assisted reproduction by his ((wife)) or her spouse or domestic partner;

(b) The ((husband and the mother)) spouse or domestic partner and the parent of the child have not cohabited since the probable time of assisted reproduction; and

(c) The ((husband)) spouse or domestic partner never openly ((treated)) held out the child as his or her own.

(3) The limitation provided in this section applies to a marriage or domestic partnership declared invalid after assisted reproduction.

Sec. 50. RCW 26.26.725 and 2002 c 302 s 606 are each amended to read as follows:

(1) If a marriage or domestic partnership is dissolved before placement of eggs, sperm, or an embryo, the former spouse or former domestic partner is not a parent of the resulting child unless the

former spouse or former domestic partner consented in a signed record that if assisted reproduction were to occur after a ((divorce)) dissolution, the former spouse or former domestic partner would be a parent of the child.

(2) The consent of the former spouse or former domestic partner to assisted reproduction may be ((revoked)) withdrawn by that individual in a record at any time before placement of eggs, sperm, or embryos. An individual who withdraws consent under this section is not a parent of the resulting child.

Sec. 51. RCW 26.26.730 and 2002 c 302 s 607 are each amended to read as follows:

If ((a spouse)) an individual who consented in a record to be a parent by assisted reproduction dies before placement of eggs, sperm, or an embryo, the deceased ((spouse)) individual is not a parent of the resulting child unless the deceased ((spouse)) individual consented in a signed record that if assisted reproduction were to occur after death, the deceased ((spouse)) individual would be a parent of the child.

Sec. 52. RCW 26.26.735 and 2002 c 302 s 608 are each amended to read as follows:

The donor of ((ovum)) eggs provided to a licensed physician for use in ((the alternative reproductive medical technology process)) assisted reproduction for the purpose of attempting to achieve a pregnancy in a woman other than the donor is treated in law as if she were not the ((natural mother)) parent of a child thereafter conceived and born unless the donor and the woman who gives birth to a child as a result of the ((alternative reproductive medical technology procedures)) assisted reproduction agree in writing that the donor is to be a parent. RCW 26.26.705 does not apply in such case. A woman who gives birth to a child conceived through ((alternative reproductive medical technology procedures)) assisted reproduction under the supervision and with the assistance of a licensed physician is treated in law as if she were the ((natural mother)) parent of the child unless an agreement in writing signed by an ((ovum)) egg donor and the woman giving birth to the child states otherwise. An agreement pursuant to this section must be in writing and signed by the ((ovum)) egg donor and the woman who gives birth to the child and any other intended parent of the child. The physician shall certify the parties' signatures and the date of the ((ovum)) egg harvest, identify the subsequent medical procedures undertaken, and identify the intended parents. The agreement, including the affidavit and certification ((referenced in RCW 26.26.030)), must be filed with the registrar of vital statistics, where it must be kept confidential and in a sealed file.

NEW SECTION. Sec. 53. A new section is added to chapter 26.26 RCW to read as follows:

(1) A person who donates gametes to a fertility clinic in Washington to be used in assisted reproduction shall provide, at a minimum, his or her identifying information and medical history to the fertility clinic. The fertility clinic shall keep the identifying information and medical history of its donors and shall disclose the information as provided under subsection (2) of this section.

(2)(a) A child conceived through assisted reproduction who is at least eighteen years old shall be provided, upon his or her request, access to identifying information of the donor who provided gametes for the assisted reproduction that resulted in the birth of the child, unless the donor has signed an affidavit of nondisclosure with the fertility clinic that provided the gamete for assisted reproduction.

(b) Regardless of whether the donor signed an affidavit of nondisclosure, a child conceived through assisted reproduction who is at least eighteen years old shall be provided, upon his or her request, access to the nonidentifying medical history of the donor who provided gametes for the assisted reproduction that resulted in the birth of the child.

Sec. 54. RCW 26.26.903 and 2002 c 302 s 709 are each amended to read as follows:

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it and to the intent that the act apply to persons of the same sex who have children together to the same extent the act applies to persons of the opposite sex who have children together.

Sec. 55. RCW 26.26.911 and 2002 c 302 s 101 are each amended to read as follows:

This act may be known and cited as the uniform parentage act of 2002.

NEW SECTION. Sec. 56. Any action taken by an agency to implement the provisions of this act must be accomplished within existing resources. Any costs incurred by the administrative office of the courts for modifications to the judicial information system as a result of the provisions of this act shall be paid from the judicial information system account.

NEW SECTION. Sec. 57. 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. 58. This act applies to causes of action filed on or after the effective date of this section."

On page 1, line 3 of the title, after "parentage;" strike the remainder of the title and insert "amending RCW 26.26.011, 26.26.021, 26.26.041, 26.26.051, 26.26.101, 26.26.106, 26.26.111, 26.26.116, 26.26.130, 26.26.150, 26.26.300, 26.26.305, 26.26.310, 26.26.315, 26.26.320, 26.26.330, 26.26.335, 26.26.340, 26.26.360, 26.26.375, 26.26.400, 26.26.405, 26.26.410, 26.26.420, 26.26.425, 26.26.430, 26.26.435, 26.26.445, 26.26.505, 26.26.510, 26.26.525, 26.26.530, 26.26.535, 26.26.540, 26.26.545, 26.26.550, 26.26.555, 26.26.570, 26.26.575, 26.26.585, 26.26.590, 26.26.600, 26.26.620, 26.26.625, 26.26.630, 26.26.705, 26.26.710, 26.26.715, 26.26.720, 26.26.725, 26.26.730, 26.26.735, 26.26.903, and 26.26.911; adding a new section to chapter 26.26 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 SECOND SUBSTITUTE HOUSE BILL NO. 1267 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

Representative Shea spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1267, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1267, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 57; Nays, 40; Absent, 0; Excused, 1.

Voting yea: Representatives Anderson, Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jinkins, Kagi, Kelley,

Kenney, Kirby, Ladenburg, Liias, Lytton, Maxwell, McCoy, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Reykdal, Roberts, Rolfes, Ryu, Santos, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Walsh, Wylie and Mr. Speaker.

Voting nay: Representatives Ahern, Alexander, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Harris, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, McCune, Miloscia, Nealey, Orcutt, Overstreet, Parker, Pearson, Rivers, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Warnick, Wilcox and Zeiger.

Excused: Representative Crouse.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1267, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 21, 2011

Mr. Speaker:

The Senate receded from its amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1547. Under suspension of the rules, the bill was returned to second reading for purpose of amendment. The Senate adopted the following amendment and passed the bill as amended by the Senate:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.94A.685 and 1993 c 419 s 1 are each amended to read as follows:

(1) Subject to the limitations of this section, any alien offender committed to the custody of the department under the sentencing reform act of 1981, chapter 9.94A RCW, who has been found by the United States attorney general to be subject to a final order of deportation or exclusion, may be placed on conditional release status and released to the immigration and ~~((naturalization service))~~ customs enforcement agency for deportation at any time prior to the expiration of the offender's term of confinement. Conditional release shall continue until the expiration of the statutory maximum sentence provided by law for the crime or crimes of which the offender was convicted. If the offender has multiple current convictions, the statutory maximum sentence allowed by law for each crime shall run concurrently.

(2) No offender may be released under this section unless the secretary or the secretary's designee ~~((find [finds] that such release is in the best interests of the state of Washington. Further, releases under this section may occur only with the approval of the sentencing court and the prosecuting attorney of the county of conviction))~~ has reached an agreement with the immigration and customs enforcement agency that the alien offender placed on conditional release status will be detained in total confinement at a facility operated by the immigration and customs enforcement agency pending the offender's return to the country of origin or other location designated in the final deportation or exclusion order.

~~((3))~~ No offender may be released under this section who is serving a sentence for a violent offense or sex offense, as defined in RCW 9.94A.030 ~~((, or any other offense that is a crime against a person)).~~

~~((4))~~ (3) The unserved portion of the term of confinement of any offender released under this section shall be tolled at the time the offender is released to the immigration and ~~((naturalization service))~~ customs enforcement agency for deportation. Upon the release of an offender to the immigration and ~~((naturalization service))~~ customs enforcement agency, the department shall issue a warrant for the offender's arrest within the United States. This warrant shall remain

in effect ~~((until the expiration of the offender's conditional release))~~ indefinitely.

~~((5))~~ (4) Upon arrest of an offender, the department ~~((shall))~~ may seek extradition as necessary and the offender ~~((shall))~~ may be returned to the department for completion of the unserved portion of the offender's term of total confinement. If returned, the offender shall also be required to fully comply with all the terms and conditions of the sentence.

~~((6))~~ (5) Alien offenders released to the immigration and ~~((naturalization service))~~ customs enforcement agency for deportation under this section are not thereby relieved of their obligation to pay restitution or other legal financial obligations ordered by the sentencing court.

~~((7))~~ (6) Any offender released pursuant to this section who returns illegally to the United States may not thereafter be released again pursuant to this section.

~~((8))~~ (7) The secretary is authorized to take all reasonable actions to implement this section and shall assist federal authorities in prosecuting alien offenders who may illegally reenter the United States and enter the state of Washington.

(8) The provisions of this section apply to persons convicted before, on, or after the effective date of this section.

NEW SECTION. Sec. 2. A new section is added to chapter 9.94A RCW to read as follows:

(1) The department shall provide a written notice of rights in removal proceedings to all offenders in the department's custody who are subject to early release pursuant to RCW 9.94A.685. The notice shall be provided as early in the removal process as feasible.

(2) The department shall work in conjunction with a qualified nonprofit legal services organization in the state recognized by the department of justice pursuant to 8 C.F.R. 1003.61, to create the written notice required by subsection (1) of this section. A written notice containing the advisals given to an individual at the first master calendar hearing in a removal proceeding meets the requirements of this section.

Sec. 3. RCW 10.40.200 and 1983 c 199 s 1 are each amended to read as follows:

(1) The legislature finds and declares that in many instances involving an individual who is not a citizen of the United States charged with an offense punishable as a crime under state law, a plea of guilty is entered without the defendant knowing that a conviction of such offense is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. Therefore, it is the intent of the legislature in enacting this section to promote fairness to such accused individuals by requiring in such cases that acceptance of a guilty plea be preceded by an appropriate warning of the special consequences for such a defendant which may result from the plea. It is further the intent of the legislature that at the time of the plea no defendant be required to disclose his or her legal status to the court.

(2) Prior to acceptance of a plea of guilty to any offense punishable as a crime under state law, except offenses designated as infractions under state law, the court shall determine that the defendant has been advised of the following potential consequences of conviction for a defendant who is not a citizen of the United States: Deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. A defendant signing a guilty plea statement containing the advisement required by this subsection shall be presumed to have received the required advisement. If, after September 1, 1983, the defendant has not been advised as required by this section and the defendant shows that conviction of the offense to which the defendant pleaded guilty may have the consequences for the defendant of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States, the court, on defendant's motion, shall vacate the judgment and permit the

defendant to withdraw the plea of guilty and enter a plea of not guilty. Absent a written acknowledgement by the defendant of the advisement required by this subsection, the defendant shall be presumed not to have received the required advisement.

(3) With respect to pleas accepted prior to September 1, 1983, it is not the intent of the legislature that a defendant's failure to receive the advisement required by subsection (2) of this section should require the vacation of judgment and withdrawal of the plea or constitute grounds for finding a prior conviction invalid.

(4) Prior to acceptance of a plea of guilty to any offense punishable as a crime under state law, except offenses designated as infractions under state law, the court shall advise the defendant that, pursuant to RCW 9.94A.685, the defendant may be subject to early release from custody for removal from the United States as a consequence of conviction and that the defendant may be able to contest a removal order.

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

On page 1, line 1 of the title, after "offenders;" strike the remainder of the title and insert "amending RCW 9.94A.685 and 10.40.200; adding a new section to chapter 9.94A RCW; and declaring an emergency."

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. 1547 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

Representatives Pearson and Santos spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1547 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1547, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 56; Nays, 41; Absent, 0; Excused, 1.

Voting yea: Representatives Anderson, Asay, Bailey, Billig, Blake, Chandler, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Green, Haigh, Haler, Harris, Hinkle, Hudgins, Hunter, Hurst, Jinkins, Kagi, Kelley, Kirby, Kretz, Ladenburg, Lias, Lytton, Maxwell, Miloscia, Moeller, Morris, Moscoso, Nealey, Ormsby, Orwall, Parker, Pettigrew, Probst, Roberts, Rolfes, Seaquist, Sells, Short, Smith, Springer, Sullivan, Takko, Tharinger, Van De Wege, Walsh, Warnick and Mr. Speaker.

Voting nay: Representatives Ahern, Alexander, Angel, Appleton, Armstrong, Buys, Carlyle, Condotta, Dahlquist, Dammeier, DeBolt, Fagan, Goodman, Hargrove, Hasegawa, Hope,

Hunt, Johnson, Kenney, Klippert, Kristiansen, McCoy, McCune, Orcutt, Overstreet, Pearson, Pedersen, Reykdal, Rivers, Rodne, Ross, Ryu, Santos, Schmick, Shea, Stanford, Taylor, Upthegrove, Wilcox, Wylie and Zeiger.

Excused: Representative Crouse.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1547, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 21, 2011

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1599 with the following amendment:

Strike everything after the enacting clause and insert the following:

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

(a) Providing students with the opportunity to graduate from high school with the knowledge and skills to be successful in today's world is now clearly part of Washington's definition of a basic education. Some students will only achieve this objective with supplemental interventions, support, and counseling;

(b) Dropout prevention is a fundamental strategy for strengthening society, building the economy, reducing crime, reducing government spending, and increasing individual freedom and opportunity;

(c) There are known and proven strategies to reduce the dropout rate, including ones that are successful for high-risk and troubled students. For example, the opportunity internship program, the jobs for America's graduates program, the building bridges program, and individualized student support services provided by the college success foundation have all had a measurable impact on helping at-risk students be successful in school. In addition, the Everett school district successfully increased its extended graduation rate from fifty-three percent in 2003 to ninety percent in 2010 by tracking the progress toward graduation of each student and assigning success coordinators to ensure students pursued all possible avenues to complete and make up credits. The Renton school district, through a combination of leadership, community partnerships and resources, and high expectations for all students, has increased its graduation rate to ninety percent, with ninety-six percent of graduating seniors in 2010 meeting proficiency on the state high school assessments. However, these types of models have never been brought to scale; and

(d) For every dropout prevented, the chances of that person committing a crime are reduced by twenty percent, and that person stands to increase his or her lifetime earnings by three hundred thousand dollars in today's dollars. In addition, for every dropout prevented, taxpayers save an estimated ten thousand five hundred dollars per year for each year of the individual's life between the ages of twenty and sixty-five.

(2) Therefore, the state should use a dual strategy of making front-end investments in proven programs in order to expand them into an effective dropout prevention and intervention system, while simultaneously recognizing and rewarding actual success in reducing the dropout rate by investing a portion of the savings generated from each prevented dropout in the public schools.

(3) The legislature recognizes that the current fiscal climate in the state is a likely contributing factor to an increase in dropout rates. Reductions in state funding for schools are often felt first in student support services, counseling, supplemental instruction and tutoring, and increased class size, all of which affect struggling students. A

poor economy negatively affects families through unemployment, uncertainty, and reduced public services, and students bring these stresses with them to school. If allowed to go unaddressed, these economic and fiscal circumstances are likely to slow or reverse progress on improving high school completion rates. Therefore, a concentrated effort at improvement is required at this time.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.175 RCW to read as follows:

(1) The pay for actual student success (PASS) program is created under this section and sections 3 through 8 of this act to invest in proven dropout prevention and intervention programs as provided in section 3 of this act and provide a financial award for high schools that demonstrate improvement in the dropout prevention indicators established under section 4 of this act. The legislature finds that increased accumulation of credits and reductions in incidents of student discipline lead to improved graduation rates.

(2) The office of the superintendent of public instruction, the workforce training and education coordinating board, the building bridges working group, the higher education coordinating board, and the college scholarship organization under section 3(4) of this act shall collaborate to assure that the programs under section 3 of this act operate systematically and are expanded to include as many additional students and schools as possible.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.175 RCW to read as follows:

Subject to funds appropriated for this purpose, funds shall be allocated as specified in the omnibus appropriations act to support the PASS program through the following programs:

(1) The opportunity internship program under RCW 28C.18.160 through 28C.18.168;

(2) The jobs for America's graduates program administered through the office of the superintendent of public instruction;

(3) The building bridges program under RCW 28A.175.025, to be used to expand programs that have been implemented by building bridges partnerships and determined by the building bridges work group to be successful in reducing dropout rates, or to replicate such programs in new partnerships; and

(4) Individualized student support services provided by a college scholarship organization with expertise in managing scholarships for low-income, high potential students and foster care youth under contract with the higher education coordinating board, including but not limited to college and career advising, counseling, tutoring, community mentor programs, and leadership development.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.175 RCW to read as follows:

(1) The office of the superintendent of public instruction, in consultation with the state board of education, must:

(a) Calculate the annual extended graduation rate for each high school, which is the rate at which a class of students enters high school as freshmen and graduates with a high school diploma, including students who receive a high school diploma after the year they were expected to graduate. The office may statistically adjust the rate for student demographics in the high school, including the number of students eligible for free and reduced price meals, special education and English language learner students, students of various racial and ethnic backgrounds, and student mobility;

(b) Annually calculate the proportion of students at grade level for each high school, which shall be measured by the number of credits a student has accumulated at the end of each school year compared to the total number required for graduation. For the purposes of this subsection (1)(b), the office shall adopt a standard definition of "at grade level" for each high school grade;

(c) Annually calculate the proportion of students in each high school who are suspended or expelled from school, as reported by the high school. In-school suspensions shall not be included in the calculation. Improvement on the indicator under this subsection

(1)(c) shall be measured by a reduction in the number of students suspended or expelled from school; and

(d) Beginning with the 2012-13 school year, annually measure student attendance in each high school as provided under section 10 of this act.

(2) The office of the superintendent of public instruction may add dropout prevention indicators to the list of indicators under subsection (1) of this section, such as student grades, state assessment mastery, or student retention.

(3) To the maximum extent possible, the office of the superintendent of public instruction shall rely on data collected through the comprehensive education data and research system to calculate the dropout prevention indicators under this section and shall minimize additional data collection from schools and school districts unless necessary to meet the requirements of this section.

(4) The office of the superintendent of public instruction shall develop a metric for measuring the performance of each high school on the indicators under subsection (1) of this section that assigns points for each indicator and results in a single numeric dropout prevention score for each high school. The office shall weight the extended graduation rate indicator within the metric so that a high school does not qualify for an award under section 5 of this act without an increase in its extended graduation rate. The metric used through the 2012-13 school year shall include the indicators in subsection (1)(a) through (c) of this section and shall measure improvement against the 2010-11 school year as the baseline year. Beginning in the 2013-14 school year, the metric shall also include the indicator in subsection (1)(d) of this section, with improvement in this indicator measured against the 2012-13 school year as the baseline year. The office may establish a minimum level of improvement in a high school's dropout prevention score for the high school to qualify for a PASS program award under section 5 of this act.

NEW SECTION. Sec. 5. A new section is added to chapter 28A.175 RCW to read as follows:

(1)(a) Subject to funds appropriated for this purpose or otherwise available in the account established in section 7 of this act, beginning in the 2011-12 school year and each year thereafter, a high school that demonstrates improvement in its dropout prevention score compared to the baseline school year as calculated under section 4 of this act may receive a PASS program award as provided under this section. The legislature intends to recognize and reward continuous improvement by using a baseline year for calculating eligibility for PASS program awards so that a high school retains previously earned award funds from one year to the next unless its performance declines.

(b) The office of the superintendent of public instruction must determine the amount of PASS program awards based on appropriated funds and eligible high schools. The intent of the legislature is to provide an award to each eligible high school commensurate with the degree of improvement in the high school's dropout prevention score and the size of the high school. The office must establish a minimum award amount. If funds available for PASS program awards are not sufficient to provide an award to each eligible high school, the office of the superintendent of public instruction shall establish objective criteria to prioritize awards based on eligible high schools with the greatest need for additional dropout prevention and intervention services. The office of the superintendent of public instruction shall encourage and may require a high school receiving a PASS program award to demonstrate an amount of community matching funds or an amount of in-kind community services to support dropout prevention and intervention.

(c) Ninety percent of an award under this section must be allocated to the eligible high school to be used for dropout prevention activities in the school as specified in subsection (2) of this section. The principal of the high school shall determine the use of funds after

consultation with parents and certificated and classified staff of the school.

(d) Ten percent of an award under this section must be allocated to the school district in which the eligible high school is located to be used for dropout prevention activities as specified in subsection (2) of this section in the high school or in other schools in the district.

(e) The office of the superintendent of public instruction may withhold distribution of award funds under this section to an otherwise eligible high school or school district if the superintendent of public instruction issues a finding that the school or school district has willfully manipulated the dropout prevention indicators under section 4 of this act, for example by expelling, suspending, transferring, or refusing to enroll students at risk of dropping out of school or at risk of low achievement.

(2) High schools and school districts may use PASS program award funds for any programs or activities that support the development of a dropout prevention, intervention, and reengagement system as described in RCW 28A.175.074, offered directly by the school or school district or under contract with education agencies or community-based organizations, including but not limited to educational service districts, workforce development councils, and boys and girls clubs. Such programs or activities may include but are not limited to the following:

- (a) Strategies to close the achievement gap for disadvantaged students and minority students;
- (b) Use of graduation coaches as defined in section 6 of this act;
- (c) Opportunity internship activities under RCW 28C.18.164;
- (d) Dropout reengagement programs provided by community-based organizations or community and technical colleges;
- (e) Comprehensive guidance and planning programs as defined under RCW 28A.600.045, including but not limited to the navigation 101 program;
- (f) Reduced class sizes, extended school day, extended school year, and tutoring programs for students identified as at risk of dropping out of school, including instruction to assist these students in meeting graduation requirements in mathematics and science;
- (g) Outreach and counseling targeted to students identified as at risk of dropping out of school, or who have dropped out of school, to encourage them to consider learning alternatives such as preapprenticeship programs, skill centers, running start, technical high schools, and other options for completing a high school diploma;
- (h) Preapprenticeship programs or running start for the trades initiatives under RCW 49.04.190;
- (i) Mentoring programs for students;
- (j) Development and use of dropout early warning data systems;
- (k) Counseling, resource and referral services, and intervention programs to address social, behavioral, and health factors associated with dropping out of school;
- (l) Implementing programs for in-school suspension or other strategies to avoid excluding middle and high school students from the school whenever possible;
- (m) Parent engagement activities such as home visits and off-campus parent support group meetings related to dropout prevention and reengagement; and
- (n) Early learning programs for prekindergarten students.

(3) High schools and school districts are encouraged to implement dropout prevention and reengagement strategies in a comprehensive and systematic manner, using strategic planning, school improvement plans, evaluation and feedback, and response to intervention tools.

NEW SECTION. Sec. 6. A new section is added to chapter 28A.175 RCW to read as follows:

For the purposes of section 5 of this act, a "graduation coach" means a staff person, working in consultation with counselors, who is assigned to identify and provide intervention services to students who

have dropped out or are at risk of dropping out of school or of not graduating on time through the following activities:

- (1) Monitoring and advising on individual student progress toward graduation;
- (2) Providing student support services and case management;
- (3) Motivating students to focus on a graduation plan;
- (4) Encouraging parent and community involvement;
- (5) Connecting parents and students with appropriate school and community resources;
- (6) Securing supplemental academic services for students;
- (7) Implementing schoolwide dropout prevention programs and interventions; and
- (8) Analyzing data to identify at-risk students.

NEW SECTION. Sec. 7. A new section is added to chapter 28A.175 RCW to read as follows:

The high school completion account is created in the custody of the state treasurer. Revenues to the account shall consist of appropriations made by the legislature, federal funds, gifts or grants from the private sector or foundations, and other sources deposited in the account. Expenditures from the account may be used only for proven dropout prevention and intervention programs identified under section 3 of this act and to make PASS program awards under section 5 of this act. Only the superintendent of public instruction or the superintendent'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. 8. A new section is added to chapter 28A.175 RCW to read as follows:

The office of the superintendent of public instruction must regularly inform high schools and school districts about the opportunities under section 3 of this act to receive funding to implement programs that have been proven to reduce dropout rates and increase graduation rates, as well as the opportunities under section 5 of this act for high schools to receive a financial incentive for success. Within available funds, the office shall develop systemic, ongoing strategies for identifying and disseminating successful dropout prevention and reengagement programs and strategies for incorporating dropout prevention and reengagement into high school and school district strategic planning and improvement. The office may offer support and assistance to schools and districts through regional networks. The office shall make every effort to keep dropout prevention and reduction of the dropout rate a top priority for school directors, administrators, and teachers.

Sec. 9. RCW 28A.175.035 and 2007 c 408 s 3 are each amended to read as follows:

- (1) The office of the superintendent of public instruction shall:
 - (a) Identify criteria for grants and evaluate proposals for funding in consultation with the workforce training and education coordinating board;
 - (b) Develop and monitor requirements for grant recipients to:
 - (i) Identify students who both fail the Washington assessment of student learning and drop out of school;
 - (ii) Identify their own strengths and gaps in services provided to youth;
 - (iii) Set their own local goals for program outcomes;
 - (iv) Use research-based and emerging best practices that lead to positive outcomes in implementing the building bridges program; and
 - (v) Coordinate an outreach campaign to bring public and private organizations together and to provide information about the building bridges program to the local community;
 - (c) In setting the requirements under (b) of this subsection, encourage creativity and provide for flexibility in implementing the local building bridges program;
 - (d) Identify and disseminate successful practices;

(e) Develop requirements for grant recipients to collect and report data, including, but not limited to:

(i) The number of and demographics of students served including, but not limited to, information regarding a student's race and ethnicity, a student's household income, a student's housing status, whether a student is a foster youth or youth involved in the juvenile justice system, whether a student is disabled, and the primary language spoken at a student's home;

(ii) Washington assessment of student learning scores;

(iii) Dropout rates;

(iv) On-time graduation rates;

(v) Extended graduation rates;

(vi) Credentials obtained;

(vii) Absenteeism rates;

(viii) Truancy rates; and

(ix) Credit retrieval;

(f) Contract with a third party to evaluate the infrastructure and implementation of the partnership including the leveraging of outside resources that relate to the goal of the partnership. The third-party contractor shall also evaluate the performance and effectiveness of the partnerships relative to the type of entity, as identified in RCW 28A.175.045, serving as the lead agency for the partnership; and

(g) Report to the legislature by December 1, 2008.

(2) In performing its duties under this section, the office of the superintendent of public instruction is encouraged to consult with the work group identified in RCW 28A.175.075.

(3) In selecting recipients for grant funds appropriated under section 3 of this act, the office of the superintendent of public instruction shall use a streamlined and expedited application and review process for those programs that have already proven to be successful in dropout prevention.

NEW SECTION. Sec. 10. A new section is added to chapter 28A.300 RCW to read as follows:

(1)(a) The superintendent of public instruction shall adopt rules establishing a standard definition of student absence from school. In adopting the definition, the superintendent shall review current practices in Washington school districts, definitions used in other states, and any national standards or definitions used by the national center for education statistics or other national groups. The superintendent shall also consult with the building bridges work group established under RCW 28A.175.075.

(b) Using the definition of student absence adopted under this section, the superintendent shall establish an indicator for measuring student attendance in high schools for purposes of the PASS program under section 2 of this act.

(2)(a) The K-12 data governance group under RCW 28A.300.507 shall establish the parameters and an implementation schedule for statewide collection through the comprehensive education and data research system of: (i) Student attendance data using the definitions of student absence adopted under this section; and (ii) student discipline data with a focus on suspensions and expulsions from school.

(b) At a minimum, school districts must collect and submit student attendance data and student discipline data for high school students through the comprehensive education and data research system for purposes of the PASS program under section 2 of this act beginning in the 2012-13 school year.

NEW SECTION. Sec. 11. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2011, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 28A.175.035; adding new sections to chapter 28A.175 RCW; adding a new section to chapter 28A.300 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 SECOND SUBSTITUTE HOUSE BILL NO. 1599 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

Representative Dammeier spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1599, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1599, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 56; Nays, 41; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jinkins, Kagi, Kelley, Kenney, Kirby, Ladenburg, Liias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Reykdal, Roberts, Rolfes, Ryu, Santos, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Wylie and Mr. Speaker.

Voting nay: Representatives Ahern, Alexander, Anderson, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Harris, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Overstreet, Parker, Pearson, Rivers, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh, Warnick, Wilcox and Zeiger.

Excused: Representative Crouse.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1599, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 21, 2011

Mr. Speaker:

The Senate receded from its amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1725. Under suspension of the rules, the bill was returned to second reading for purpose of amendment. The Senate adopted the following amendment and passed the bill as amended by the Senate:

0)

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 51.04.030 and 2004 c 65 s 1 are each amended to read as follows:

(1) The director shall supervise the providing of prompt and efficient care and treatment, including care provided by physician assistants governed by the provisions of chapters 18.57A and 18.71A RCW, acting under a supervising physician, including chiropractic

care, and including care provided by licensed advanced registered nurse practitioners, to workers injured during the course of their employment at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and adopt and supervise the administration of printed forms, rules, regulations, and practices for the furnishing of such care and treatment: PROVIDED, That the medical coverage decisions of the department do not constitute a "rule" as used in RCW 34.05.010(16), nor are such decisions subject to the rule-making provisions of chapter 34.05 RCW except that criteria for establishing medical coverage decisions shall be adopted by rule after consultation with the workers' compensation advisory committee established in RCW 51.04.110: PROVIDED FURTHER, That the department may recommend to an injured worker particular health care services and providers where specialized treatment is indicated or where cost effective payment levels or rates are obtained by the department: AND PROVIDED FURTHER, That the department may enter into contracts for goods and services including, but not limited to, durable medical equipment so long as statewide access to quality service is maintained for injured workers.

(2) The director shall, in consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, licensed advanced registered nurse practitioner, physicians' assistants as defined in chapters 18.57A and 18.71A RCW, acting under a supervising physician or other agency or person rendering services to injured workers. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title, including services provided to injured workers, whether aliens or other injured workers, who are not residing in the United States at the time of receiving the services, shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(3), nor does such a fee schedule and its associated billing or payment instructions and policies constitute a "rule" as used in RCW 34.05.010(16).

(3) The director or self-insurer, as the case may be, shall make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured workers, shall approve and pay those which conform to the adopted rules, regulations, established fee schedules, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules, regulations, or the established fee schedules and rules and regulations adopted under it.

Sec. 2. RCW 51.04.082 and 1986 c 9 s 2 are each amended to read as follows:

Any notice or order required by this title to be mailed to any employer may be served in the manner prescribed by law for personal service of summons and complaint in the commencement of actions in the superior courts of the state, but if the notice or order is mailed, it shall be addressed to the address of the employer as shown by the records of the department, or, if no such address is shown, to such address as the department is able to ascertain by reasonable effort. If requested by the employer, any notice or order may be sent by secure electronic means except orders communicating the closure of a claim. Correspondence and notices sent electronically are considered received on the date sent by the department. Failure of the employer to receive such notice or order whether served or mailed shall not

release the employer from any tax or any increases or penalties thereon.

NEW SECTION. Sec. 3. A new section is added to chapter 51.18 RCW to read as follows:

Payment by an employer for direct primary care services as defined in RCW 48.150.010 when used for medical services on an allowed industrial injury or occupational disease claim does not disqualify: (1) the employer from participating in a retrospective rating plan; (2) any related group sponsor from promoting a retrospective rating plan; or (3) any related plan administrator from administering a retrospective rating plan, provided the employer or group sponsor or plan administrator provides any medical cost or payment information that may be required by the department. Prior to the first retrospective rating adjustment for the plan year beginning January 1, 2012, the department shall determine the information needed and any changes to the retrospective rating premium and claim cost calculations to maintain appropriate and equitable retrospective rating refunds when employers pay for direct primary care services. These changes shall apply beginning with the January 1, 2012 plan year.

The department may adopt rules to implement this section.

Sec. 4. RCW 51.24.060 and 2001 c 146 s 9 are each amended to read as follows:

(1) If the injured worker or beneficiary elects to seek damages from the third person, any recovery made shall be distributed as follows:

(a) The costs and reasonable attorneys' fees shall be paid proportionately by the injured worker or beneficiary and the department and/or self-insurer: PROVIDED, That the department and/or self-insurer may require court approval of costs and attorneys' fees or may petition a court for determination of the reasonableness of costs and attorneys' fees;

(b) The injured worker or beneficiary shall be paid twenty-five percent of the balance of the award: PROVIDED, That in the event of a compromise and settlement by the parties, the injured worker or beneficiary may agree to a sum less than twenty-five percent;

(c) The department and/or self-insurer shall be paid the balance of the recovery made, but only to the extent necessary to reimburse the department and/or self-insurer for benefits paid;

(i) The department and/or self-insurer shall bear its proportionate share of the costs and reasonable attorneys' fees incurred by the worker or beneficiary to the extent of the benefits paid under this title: PROVIDED, That the department's and/or self-insurer's proportionate share shall not exceed one hundred percent of the costs and reasonable attorneys' fees;

(ii) The department's and/or self-insurer's proportionate share of the costs and reasonable attorneys' fees shall be determined by dividing the gross recovery amount into the benefits paid amount and multiplying this percentage times the costs and reasonable attorneys' fees incurred by the worker or beneficiary;

(iii) The department's and/or self-insurer's reimbursement share shall be determined by subtracting their proportionate share of the costs and reasonable attorneys' fees from the benefits paid amount;

(d) Any remaining balance shall be paid to the injured worker or beneficiary; and

(e) Thereafter no payment shall be made to or on behalf of a worker or beneficiary by the department and/or self-insurer for such injury until the amount of any further compensation and benefits shall equal any such remaining balance minus the department's and/or self-insurer's proportionate share of the costs and reasonable attorneys' fees in regards to the remaining balance. This proportionate share shall be determined by dividing the gross recovery amount into the remaining balance amount and multiplying this percentage times the costs and reasonable attorneys' fees incurred by the worker or beneficiary. Thereafter, such benefits shall be paid by the department

and/or self-insurer to or on behalf of the worker or beneficiary as though no recovery had been made from a third person.

(2) The recovery made shall be subject to a lien by the department and/or self-insurer for its share under this section.

(3) The department or self-insurer has sole discretion to compromise the amount of its lien. In deciding whether or to what extent to compromise its lien, the department or self-insurer shall consider at least the following:

(a) The likelihood of collection of the award or settlement as may be affected by insurance coverage, solvency, or other factors relating to the third person;

(b) Factual and legal issues of liability as between the injured worker or beneficiary and the third person. Such issues include but are not limited to possible contributory negligence and novel theories of liability; and

(c) Problems of proof faced in obtaining the award or settlement.

(4) In an action under this section, the self-insurer may act on behalf and for the benefit of the department to the extent of any compensation and benefits paid or payable from state funds.

(5) It shall be the duty of the person to whom any recovery is paid before distribution under this section to advise the department or self-insurer of the fact and amount of such recovery, the costs and reasonable attorneys' fees associated with the recovery, and to distribute the recovery in compliance with this section.

(6) The distribution of any recovery made by award or settlement of the third party action shall be confirmed by department order, served by (~~registered or certified mail~~) a method for which receipt can be confirmed or tracked, and shall be subject to chapter 51.52 RCW. In the event the order of distribution becomes final under chapter 51.52 RCW, the director or the director's designee may file with the clerk of any county within the state a warrant in the amount of the sum representing the unpaid lien plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of such worker or beneficiary mentioned in the warrant, the amount of the unpaid lien plus interest accrued and the date when the warrant was filed. The amount of such warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the injured worker or beneficiary against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the injured worker or beneficiary within three days of filing with the clerk.

(7) The director, or the director's designee, may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice and order to withhold and deliver property of any kind if he or she has reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property which is due, owing, or belonging to any worker or beneficiary upon whom a warrant has been served by the department for payments due to the state fund. The notice and order to withhold and deliver shall be served by the sheriff of the county or by the sheriff's deputy; by (~~certified mail, return receipt requested~~) a method for which receipt can be confirmed or tracked; or by any authorized representatives of

the director. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property which may be subject to the claim of the department, such property shall be delivered forthwith to the director or the director's authorized representative upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount claimed by the director in the notice together with costs. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer to all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

NEW SECTION. Sec. 5. A new section is added to Chapter 51.36 RCW to read as follows:

The department shall report to the appropriate committees of the legislature by December 1, 2011 on statutory changes needed to ensure an injured worker may receive care from a health care provider who furnishes primary care services through a direct agreement in compliance with chapter 48.150 RCW and that the injured worker is not paying directly for medical services related to their industrial injury or occupational disease. The report shall provide a timeline for rule development with a goal to have necessary changes in place by July 1, 2013, and include the data required from direct care providers necessary to establish premium rates, experience modification factors, and retrospective rating adjustments; medical cost or payment information that may be required from retrospective rating participants; any requirements specific to direct primary care providers in order for them participate in the statewide medical provider network and to ensure the department has information to efficiently manage worker claims; and any other issues or barriers to participation of direct primary care providers in the workers' compensation system.

Sec. 6. RCW 51.32.240 and 2008 c 280 s 2 are each amended to read as follows:

(1)(a) Whenever any payment of benefits under this title is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by willful misrepresentation, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The department or self-insurer, as the case may be, must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed any claim therefor has been waived.

(b) Except as provided in subsections (3), (4), and (5) of this section, the department may only assess an overpayment of benefits because of adjudicator error when the order upon which the overpayment is based is not yet final as provided in RCW 51.52.050 and 51.52.060. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(c) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise his or her discretion to waive, in whole or in part, the amount of any such timely claim where the recovery would be against equity and good conscience.

(2) Whenever the department or self-insurer fails to pay benefits because of clerical error, mistake of identity, or innocent misrepresentation, all not induced by recipient willful misrepresentation, the recipient may request an adjustment of benefits to be paid from the state fund or by the self-insurer, as the case may be, subject to the following:

(a) The recipient must request an adjustment in benefits within one year from the date of the incorrect payment or it will be deemed any claim therefore has been waived.

(b) The recipient may not seek an adjustment of benefits because of adjudicator error. Adjustments due to adjudicator error are addressed by the filing of a written request for reconsideration with the department of labor and industries or an appeal with the board of industrial insurance appeals within sixty days from the date the order is communicated as provided in RCW 51.52.050. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(3) Whenever the department issues an order rejecting a claim for benefits paid pursuant to RCW 51.32.190 or 51.32.210, after payment for temporary disability benefits has been paid by a self-insurer pursuant to RCW 51.32.190(3) or by the department pursuant to RCW 51.32.210, the recipient thereof shall repay such benefits and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The director, under rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

(4) Whenever any payment of benefits under this title has been made pursuant to an adjudication by the department or by order of the board or any court and timely appeal therefrom has been made where the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim whether state fund or self-insured.

(a) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience. However, if the director waives in whole or in part any such payments due a self-insurer, the self-insurer shall be reimbursed the amount waived from the self-insured employer overpayment reimbursement fund.

(b) The department shall collect information regarding self-insured claim overpayments resulting from final decisions of the board and the courts, and recoup such overpayments on behalf of the self-insurer from any open, new, or reopened state fund or self-insured claims. The department shall forward the amounts collected to the self-insurer to whom the payment is owed. The department may provide information as needed to any self-insurers from whom payments may be collected on behalf of the department or another self-insurer. Notwithstanding RCW 51.32.040, any self-insurer requested by the department to forward payments to the department pursuant to this subsection shall pay the department directly. The department shall credit the amounts recovered to the appropriate fund, or forward amounts collected to the appropriate self-insurer, as the case may be.

(c) If a self-insurer is not fully reimbursed within twenty-four months of the first attempt at recovery through the collection process pursuant to this subsection and by means of processes pursuant to subsection (6) of this section, the self-insurer shall be reimbursed for the remainder of the amount due from the self-insured employer overpayment reimbursement fund.

(d) For purposes of this subsection, "recipient" does not include health service providers whose treatment or services were authorized by the department or self-insurer.

(e) The department or self-insurer shall first attempt recovery of overpayments for health services from any entity that provided health insurance to the worker to the extent that the health insurance entity would have provided health insurance benefits but for workers' compensation coverage.

(5)(a) Whenever any payment of benefits under this title has been induced by willful misrepresentation the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient on any claim with the state fund or self-insurer against whom the willful misrepresentation was committed, as the case may be, and the amount of such penalty shall be placed in the supplemental pension fund. Such repayment or recoupment must be demanded or ordered within three years of the discovery of the willful misrepresentation.

(b) For purposes of this subsection (5), it is willful misrepresentation for a person to obtain payments or other benefits under this title in an amount greater than that to which the person otherwise would be entitled. Willful misrepresentation includes:

(i) Willful false statement; or

(ii) Willful misrepresentation, omission, or concealment of any material fact.

(c) For purposes of this subsection (5), "willful" means a conscious or deliberate false statement, misrepresentation, omission, or concealment of a material fact with the specific intent of obtaining, continuing, or increasing benefits under this title.

(d) For purposes of this subsection (5), failure to disclose a work-type activity must be willful in order for a misrepresentation to have occurred.

(e) For purposes of this subsection (5), a material fact is one which would result in additional, increased, or continued benefits, including but not limited to facts about physical restrictions, or work-type activities which either result in wages or income or would be reasonably expected to do so. Wages or income include the receipt of any goods or services. For a work-type activity to be reasonably expected to result in wages or income, a pattern of repeated activity must exist. For those activities that would reasonably be expected to result in wages or produce income, but for which actual wage or income information cannot be reasonably determined, the department shall impute wages pursuant to RCW 51.08.178(4).

(6) The worker, beneficiary, or other person affected thereby shall have the right to contest an order assessing an overpayment pursuant to this section in the same manner and to the same extent as provided under RCW 51.52.050 and 51.52.060. In the event such an order becomes final under chapter 51.52 RCW and notwithstanding the provisions of subsections (1) through (5) of this section, the director, director's designee, or self-insurer may file with the clerk in any county within the state a warrant in the amount of the sum representing the unpaid overpayment and/or penalty plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the worker, beneficiary, or other person mentioned in the warrant, the amount of the unpaid overpayment and/or penalty plus interest accrued, and the date the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the worker, beneficiary, or other person against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property

upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department or self-insurer in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the worker, beneficiary, or other person within three days of filing with the clerk.

The director, director's designee, or self-insurer may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice to withhold and deliver property of any kind if there is reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property that is due, owing, or belonging to any worker, beneficiary, or other person upon whom a warrant has been served for payments due the department or self-insurer. The notice and order to withhold and deliver shall be served by ~~((certified mail))~~ a method for which receipt can be confirmed or tracked accompanied by an affidavit of service by mailing or served by the sheriff of the county, or by the sheriff's deputy, or by any authorized representative of the director, director's designee, or self-insurer. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired or in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property that may be subject to the claim of the department or self-insurer, such property shall be delivered forthwith to the director, the director's authorized representative, or self-insurer upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount, plus costs, claimed by the director, director's designee, or self-insurer in the notice. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

This subsection shall only apply to orders assessing an overpayment which are issued on or after July 28, 1991: PROVIDED, That this subsection shall apply retroactively to all orders assessing an overpayment resulting from fraud, civil or criminal.

(7) Orders assessing an overpayment which are issued on or after July 28, 1991, shall include a conspicuous notice of the collection methods available to the department or self-insurer.

Sec. 7. RCW 51.48.120 and 1995 c 160 s 5 are each amended to read as follows:

If any employer should default in any payment due to the state fund the director or the director's designee may issue a notice of assessment certifying the amount due, which notice shall be served upon the employer by mailing such notice to the employer by ~~((certified mail))~~ a method for which receipt can be confirmed or tracked to the employer's last known address or served in the manner prescribed for the service of a summons in a civil action. Such notice shall contain the information that an appeal must be filed with the board of industrial insurance appeals and the director by mail or personally within thirty days of the date of service of the notice of assessment in order to appeal the assessment unless a written request for reconsideration is filed with the department of labor and industries.

Sec. 8. RCW 51.48.150 and 1995 c 160 s 6 are each amended to read as follows:

The director or the director's designee is hereby authorized to issue to any person, firm, corporation, municipal corporation, political subdivision of the state, a public corporation, or any agency of the state, a notice and order to withhold and deliver property of any kind whatsoever when he or she has reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or any agency of the state, property which is or shall become due, owing, or belonging to any employer upon whom a notice of assessment has been served by the department for payments due to the state fund. The effect of a notice and order to withhold and deliver shall be continuous from the date such notice and order to withhold and deliver is first made until the liability out of which such notice and order to withhold and deliver arose is satisfied or becomes unenforceable because of lapse of time. The department shall release the notice and order to withhold and deliver when the liability out of which the notice and order to withhold and deliver arose is satisfied or becomes unenforceable by reason of lapse of time and shall notify the person against whom the notice and order to withhold and deliver was made that such notice and order to withhold and deliver has been released.

The notice and order to withhold and deliver shall be served by the sheriff of the county or by the sheriff's deputy, by ~~((certified mail, return receipt requested))~~ a method for which receipt can be confirmed or tracked, or by any duly authorized representatives of the director. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation or any agency of the state upon whom service has been made is hereby required to answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with a notice and order to withhold and deliver, any property which may be subject to the claim of the department, such property shall be delivered forthwith to the director or the director's duly authorized representative upon service of the notice to withhold and deliver which will be held in trust by the director for application on the employer's indebtedness to the department, or for return without interest, in accordance with a final determination of a petition for review, or in the alternative such party shall furnish a good and sufficient surety bond satisfactory to the director conditioned upon final determination of liability. Should any party served and named in the notice to withhold and deliver fail to make answer to such notice and order to withhold and deliver, within the time prescribed herein, it shall be lawful for the court, after the time to answer such order has expired, to render judgment by default against the party named in the notice to withhold and deliver for the full amount claimed by the director in the notice to withhold and deliver together with costs. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, then the employer shall be entitled to assert in the answer to all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

Sec. 9. RCW 51.52.050 and 2008 c 280 s 1 are each amended to read as follows:

(1) Whenever the department has made any order, decision, or award, it shall promptly serve the worker, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, ~~((which shall be addressed to such person at his or her last known address as shown by the records of the department))~~ or if the worker, beneficiary, employer, or other person affected thereby chooses, the department may send correspondence and other legal notices by secure electronic means except for orders communicating the closure of a claim. Persons who choose to receive correspondence and other legal notices electronically shall be provided information to assist

them in ensuring all electronic documents and communications are received. Correspondence and notices must be addressed to such a person at his or her last known postal or electronic address as shown by the records of the department. Correspondence and notices sent electronically are considered received on the date sent by the department. The copy, in case the same is a final order, decision, or award, shall bear on the same side of the same page on which is found the amount of the award, a statement, set in black faced type of at least ten point body or size, that such final order, decision, or award shall become final within sixty days from the date the order is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia. However, a department order or decision making demand, whether with or without penalty, for repayment of sums paid to a provider of medical, dental, vocational, or other health services rendered to an industrially injured worker, shall state that such order or decision shall become final within twenty days from the date the order or decision is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia.

(2)(a) Whenever the department has taken any action or made any decision relating to any phase of the administration of this title the worker, beneficiary, employer, or other person aggrieved thereby may request reconsideration of the department, or may appeal to the board. In an appeal before the board, the appellant shall have the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal.

(b) An order by the department awarding benefits shall become effective and benefits due on the date issued. Subject to (b)(i) and (ii) of this subsection, if the department order is appealed the order shall not be stayed pending a final decision on the merits unless ordered by the board. Upon issuance of the order granting the appeal, the board will provide the worker with notice concerning the potential of an overpayment of benefits paid pending the outcome of the appeal and the requirements for interest on unpaid benefits pursuant to RCW 51.52.135. A worker may request that benefits cease pending appeal at any time following the employer's motion for stay or the board's order granting appeal. The request must be submitted in writing to the employer, the board, and the department. Any employer may move for a stay of the order on appeal, in whole or in part. The motion must be filed within fifteen days of the order granting appeal. The board shall conduct an expedited review of the claim file provided by the department as it existed on the date of the department order. The board shall issue a final decision within twenty-five days of the filing of the motion for stay or the order granting appeal, whichever is later. The board's final decision may be appealed to superior court in accordance with RCW 51.52.110. The board shall grant a motion to stay if the moving party demonstrates that it is more likely than not to prevail on the facts as they existed at the time of the order on appeal. The board shall not consider the likelihood of recoupment of benefits as a basis to grant or deny a motion to stay. If a self-insured employer prevails on the merits, any benefits paid may be recouped pursuant to RCW 51.32.240.

(i) If upon reconsideration requested by a worker or medical provider, the department has ordered an increase in a permanent partial disability award from the amount reflected in an earlier order, the award reflected in the earlier order shall not be stayed pending a final decision on the merits. However, the increase is stayed without further action by the board pending a final decision on the merits.

(ii) If any party appeals an order establishing a worker's wages or the compensation rate at which a worker will be paid temporary or permanent total disability or loss of earning power benefits, the worker shall receive payment pending a final decision on the merits based on the following:

(A) When the employer is self-insured, the wage calculation or compensation rate the employer most recently submitted to the department; or

(B) When the employer is insured through the state fund, the highest wage amount or compensation rate uncontested by the parties.

Payment of benefits or consideration of wages at a rate that is higher than that specified in (b)(ii)(A) or (B) of this subsection is stayed without further action by the board pending a final decision on the merits.

(c) In an appeal from an order of the department that alleges willful misrepresentation, the department or self-insured employer shall initially introduce all evidence in its case in chief. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter."

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. 1725 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1725, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1725, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Santos, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representative Hasegawa.

Excused: Representative Crouse.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1725, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 21, 2011

Mr. Speaker:

The Senate insists on its position on SUBSTITUTE HOUSE BILL NO. 1874 and asks the House to concur.

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. 1874 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Dickerson, Pearson, Klippert and Goodman spoke in favor of the passage of the bill.

Representatives Pedersen and Appleton spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1874, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1874, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 82; Nays, 15; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Armstrong, Asay, Bailey, Billig, Blake, Buys, Chandler, Clibborn, Cody, Condotta, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hinkle, Hope, Hudgins, Hurst, Johnson, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pettigrew, Probst, Rivers, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Smith, Stanford, Sullivan, Takko, Taylor, Tharinger, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Appleton, Carlyle, Eddy, Hasegawa, Hunt, Hunter, Jinkins, Kagi, Ladenburg, Pedersen, Reykdal, Ryu, Springer, Upthegrove and Van De Wege.

Excused: Representative Crouse.

SUBSTITUTE HOUSE BILL NO. 1874, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on Substitute House Bill No. 1874.

Representative Santos, 37th District

The Speaker (Representative Orwall presiding) called upon Representative Moeller to preside.

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

SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

2ESSB 5742 Prime Sponsor, Committee on Transportation: Providing funding and cost saving measures for the Washington state ferry system. (REVISED FOR ENGROSSED: Concerning the Washington state ferry system.) Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended by Committee on Transportation as such amendment is amended by Committee on Ways & Means.

On page 3, line 5, after "every" insert "one-way and round-trip"

On page 3, beginning on line 6, after "pass fares.", strike all material through "sold." on line 7

Signed by Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Bailey, Assistant Ranking Minority Member; Carlyle; Cody; Dickerson; Haigh; Hinkle; Hudgins; Hunt; Kagi; Kenney; Ormsby; Pettigrew; Ross; Seaquist; Springer and Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Chandler; Haler; Parker; Schmick and Wilcox.

There being no objection, SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5742 was placed on the second reading calendar.

SECOND READING

HOUSE BILL NO. 2021, by Representatives Pettigrew, Darneille, Seaquist, Carlyle, Hunter and Cody

Limiting the annual increase amounts in the public employees' retirement system plan 1 and the teachers' retirement system plan 1.

The bill was read the second time.

There being no objection, Substitute House Bill No. 2021 was substituted for House Bill No. 2021 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 2021 was read the second time.

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

Representatives Pettigrew, Hunter, Seaquist and Armstrong spoke in favor of the passage of the bill.

Representatives Bailey and Hinkle spoke against 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. 2021.

ROLL CALL

April 21, 2011

The Clerk called the roll on the final passage of Substitute House Bill No. 2021, and the bill passed the House by the following vote: Yeas, 52; Nays, 45; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunter, Hurst, Jinkins, Kagi, Kelley, Kenney, Kirby, Ladenburg, Lias, Lytton, Maxwell, McCoy, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Roberts, Rolfes, Santos, Seaquist, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege and Mr. Speaker.

Voting nay: Representatives Ahern, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Harris, Hinkle, Hope, Hunt, Johnson, Klippert, Kretz, Kristiansen, McCune, Miloscia, Nealey, Orcutt, Overstreet, Parker, Pearson, Reykdal, Rivers, Rodne, Ross, Ryu, Schmick, Sells, Shea, Short, Smith, Taylor, Walsh, Warnick, Wilcox, Wylie and Zeiger.

Excused: Representative Crouse.

SUBSTITUTE HOUSE BILL NO. 2021, having received the necessary constitutional majority, was declared passed.

THIRD READING

CONFERENCE COMMITTEE REPORT

April 20, 2011

Engrossed Substitute Senate Bill No. 5457

Includes "New Item": YES

Mr. Speaker:

We of your Conference Committee, to whom was referred ENGROSSED SUBSTITUTE SENATE BILL NO. 5457, , providing a congestion reduction charge to fund the operational and capital needs of transit agencies, have had the same under consideration and we recommend that:

All previous amendments not be adopted and that the attached striking amendment be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that public transportation provides many benefits to the citizens of the state and the environment, including through public transportation's ability to alleviate congestion and offset the burdens placed by general vehicular traffic on the state's transportation infrastructure. In these challenging economic times, many transit agencies find themselves struggling to continue to provide a level of service that reduces congestion.

The legislature further recognizes that King county conducted a regional transit task force in 2010 that considered a policy framework for the potential future growth and, if necessary, contraction of King county's transit system. The task force members were selected to represent a broad diversity of interests and perspectives. The task force recommendations, which were unanimously accepted, addressed key elements, such as the adoption of performance measures, controlling operating costs, developing policy guidance for making service reductions, and clear and transparent guidelines for service allocation. As a result of the work done by the task force and King county's commitment to comply with the recommendations, it is the intent of the legislature that King county be provided the opportunity to impose a temporary congestion reduction charge, which is separate and distinct from the base motor vehicle license fee, that can help address its revenue shortfalls during this economic crisis and allow it to continue reducing congestion and the corresponding

burdens placed on the highway system on some of the state's most crowded corridors.

The legislature recognizes that the title of Initiative Measure No. 1053 states that it applies only to tax and fee increases imposed by state government, and that the text of the initiative requires a two-thirds majority only for tax increases. The legislature further recognizes that Initiative Measure No. 1053 does not apply to local government. Despite these facts, this act requires a two-thirds majority of the metropolitan King county council in order to implement a local option fee, in the form of a congestion reduction charge, to help fund King county metro transit service. Faced with the potential loss of hundreds of thousands of hours of vital transit service, it is the intent of the legislature to provide King county with this temporary local option funding mechanism. It is further the intent of the legislature not to expand the parameters of Initiative Measure No. 1053 beyond what the voters intended and thus interfere with local control or limit the ability of local governments to provide services to the people of Washington.

NEW SECTION. Sec. 2. A new section is added to chapter 82.80 RCW to read as follows:

(1)(a) Except as provided in subsection (2) of this section, the governing body of a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW and is operating a public transportation system may impose, if approved by a majority of the voters within that county or a two-thirds majority of the governing body, an annual congestion reduction charge of up to twenty dollars per vehicle registered in the boundaries of the county for each vehicle subject to vehicle license fees under RCW 46.17.350(1) (a), (c), (d), (e), (g), (h), (j), (n), (o), (p), or (q) and for each vehicle subject to gross weight license fees under RCW 46.17.355 with an unladen weight of six thousand pounds or less.

(b) Prior to the imposition of a congestion reduction charge authorized under (a) of this subsection, a governing body must complete a congestion reduction plan indicating the proposed expenditures of the proceeds of the congestion reduction charge.

(c) If a governing body that imposes a congestion reduction charge authorized under (a) of this subsection completed a regional transit task force evaluating system improvements and efficiencies within two years prior to the imposition of the charge, the proceeds from the charge must be expended in a manner consistent with the recommendations of the regional transit task force.

(d) A governing body that imposes a congestion reduction charge authorized under (a) of this subsection must complete a report by July 1, 2012, detailing the expenditures of the proceeds of the congestion reduction charge through June 1, 2012.

(e) A governing body that imposes a congestion reduction charge authorized under (a) of this subsection must complete a report by June 1, 2014, detailing the expenditures of the proceeds of the congestion reduction charge.

(2) The governing body of a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW and is operating a public transportation system may not impose a congestion reduction charge authorized under subsection (1)(a) of this section for a passenger-only ferry transportation improvement, unless the charge is first approved by a majority of the voters within that county.

(3) The governing body of a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW and is operating a public transportation system shall contract with the department of licensing as provided under section 3 of this act for the collection of the congestion reduction charge.

(4) A congestion reduction charge imposed under this section may not be assessed until six months after approval.

(5) A congestion reduction charge imposed under this section applies only for vehicle registration renewals and is effective upon the registration renewal date as provided by the department of licensing.

(6) The following vehicles are exempt from the congestion reduction charge imposed under this section:

(a) Farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181;

(b) Off-road vehicles as defined in RCW 46.04.365;

(c) Nonhighway vehicles as defined in RCW 46.09.310;

(d) Vehicles registered under chapter 46.87 RCW and the international registration plan; and

(e) Snowmobiles as defined in RCW 46.04.546.

(7) The authority to impose a congestion reduction charge authorized in subsection (1)(a) of this section expires with vehicle registrations that expire two years after the imposition of the charge or no later than June 30, 2014, whichever comes first.

(8) A congestion reduction charge authorized under subsection (1)(a) of this section may only be imposed after June 30, 2014, if approved by a majority of the voters within a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW and is operating a public transportation system.

(9) This section expires December 31, 2014.

NEW SECTION. Sec. 3. A new section is added to chapter 46.68 RCW to read as follows:

Whenever the department enters into a contract with the governing body of a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW and is operating a public transportation system for the collection of congestion reduction charges authorized under section 2 of this act:

(1) The contract must require that the governing body provide any information specified by the department to identify the vehicle owners who owe the congestion reduction charges, and must specify that it is the responsibility of the governing body to ensure that the congestion reduction charges are appropriately applied;

(2) The department is not responsible for the collection of congestion reduction charges until a date agreed to by both parties as specified in the contract;

(3) The department shall deduct a percentage amount as provided in the contract, not to exceed three percent of the charges collected, necessary to reimburse the department for the costs incurred for the collection of the congestion reduction charges; and

(4) The department shall remit remaining proceeds to the custody of the state treasurer. The state treasurer shall distribute the proceeds to the governing body on a monthly basis."
Correct the title.

and that the bill do pass as recommended by the Conference Committee:

Senators Haugen, White and King
Representatives Clibborn, Lias and Armstrong

There being no objection, the House adopted the conference committee report on ENGROSSED SUBSTITUTE SENATE BILL NO. 5457 and advanced the bill as recommended by the conference committee to final passage.

FINAL PASSAGE OF HOUSE BILL AS RECOMMENDED BY CONFERENCE COMMITTEE

Representative Lias spoke in favor of the passage of the bill as recommended by the conference committee.

Representative Armstrong spoke against the passage of the bill as recommended by the conference committee.

The Speaker (Representative Moeller presiding) stated the question before the House to be final passage of Engrossed Substitute Senate Bill No. 5457 as recommended by the conference committee.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5457, as recommended by the conference committee, and the bill passed the House by the following votes: Yeas, 50; Nays, 47; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hunt, Hunter, Hurst, Jinkins, Kagi, Kenney, Kirby, Ladenburg, Lias, Lytton, Maxwell, McCoy, Moeller, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Reykdal, Roberts, Rolfes, Ryu, Santos, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Wylie and Mr. Speaker.

Voting nay: Representatives Ahern, Alexander, Anderson, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Dahlquist, Dammeier, DeBolt, Dickerson, Fagan, Haler, Hargrove, Harris, Hinkle, Hope, Hudgins, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Miloscia, Morris, Nealey, Orcutt, Overstreet, Parker, Pearson, Probst, Rivers, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh, Warnick, Wilcox and Zeiger.

Excused: Representative Crouse.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5457, as recommended by the conference committee, having received the 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., April 22, 2011, the 103rd Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk

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5457-S	Committee Report Conference	49
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5531-S	Second Reading	10
	Amendment Offered	10
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5540-S	Messages	1
5579-S	Messages	1
5590-S	Messages	1
5595-S2	President Signed	1
5614-S	President Signed	1
5622-S2	Second Reading	23
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5658-S	President Signed	1
5688-S	President Signed	1
5700-S	Messages	1
	President Signed	1
5731	Messages	1
	President Signed	1
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