

NINETY-SIXTH DAY

MORNING SESSION

Senate Chamber, Olympia, Friday, April 17, 2009

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Haugen, Hobbs, Jacobsen, Ranker and Rockefeller.

The Sergeant at Arms Color Guard consisting of Pages Andrew Jenkins and Sebastian Sanchez, presented the Colors. Pastor Sandra Kreis of St. Christopher's Community Church offered the prayer.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Central Washington University Army ROTC, Lt. Colonel Greg Solem, Professor of Military Science at CWU; Col. Paul Wood, 13th Brigade Commander, U. S. Army Cadet Command; Central Washington University President James Gaudino; Cadets, Aron Blanchard, Cadet Battalion Commander; Kara Haderli; Darek Piper; Nathan Schoffer and Noah Anderson who were seated in the gallery.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

**MESSAGE FROM THE GOVERNOR
GUBERNATORIAL APPOINTMENTS**

April 16, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON
Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

GAIL KOGLE, appointed March 25, 2009, for the term ending December 5, 2009, as Member of the Eastern State Hospital Advisory Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Human Services & Corrections.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

April 16, 2009

MR. PRESIDENT:

The House concurred in Senate amendments to the following bills and passed the bills as amended by the Senate:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1002,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1004,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1033,
SUBSTITUTE HOUSE BILL NO. 1038,
SECOND SUBSTITUTE HOUSE BILL NO. 1052,
SUBSTITUTE HOUSE BILL NO. 1071,
HOUSE BILL NO. 1120,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 6184 by Senators McCaslin and Fairley

AN ACT Relating to agency review of initiative measures; and amending RCW 29A.72.020.

Referred to Committee on Government Operations & Elections.

SB 6185 by Senator Hatfield

AN ACT Relating to preserving the maritime heritage of the state of Washington; amending RCW 82.49.010, 88.02.010, and 88.02.053; adding a new section to chapter 27.34 RCW; adding a new section to chapter 88.02 RCW; and creating a new section.

Referred to Committee on Natural Resources, Ocean & Recreation.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 2327 by House Committee on Ways & Means (originally sponsored by Representatives Linville and Ericks)

AN ACT Relating to eliminating or reducing the frequency of reports prepared by state agencies; amending RCW 19.146.280, 43.320.1401, 43.88.110, 13.60.110, 74.13.036, 74.08A.130, 70.56.040, 43.70.690, 77.85.140, 43.320.100, 39.102.140, 43.336.060, 43.365.040, 43.330.082, 43.155.070, 43.185C.040, 43.63A.068, 39.86.190, 43.325.050, 43.79.460, 18.130.310, and 43.20.100; repealing RCW 43.88.067, 46.48.180, 43.44.100, 74.14C.080, 80.36.475, 74.08A.430, 70.114A.085, 43.70.518, and 79A.15.100; adding a new section to chapter 43.01 RCW; and providing expiration dates.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth

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order of business.

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the bill passed the Senate by the following vote: Yeas, 25; Nays, 19; Absent, 1; Excused, 4.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Regala, Swecker and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hatfield, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Pflug, Roach, Schoesler, Sheldon, Shin, Stevens and Zarelli

Absent: Senator Hobbs

Excused: Senators Haugen, Jacobsen, Ranker and Rockefeller

SECOND SUBSTITUTE HOUSE BILL NO. 1172 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

POINT OF PERSONAL PRIVILEGE

Senator Holmquist: "Thank you Mr. President. As Senator of the 13th Legislative District I just didn't want to miss the opportunity to acknowledge and I think you've already acknowledging them in our wings today. Central Washington University Army Reserve Officers Training Corp has earned the title as the most outstanding battalion of the nation's 277 Senior Army ROTC programs and today April 17th our Governor Gregoire is signing a Gubernatorial proclamation proclaiming today as Central Washington University ROTC recognition day and there will be a ceremony held today at 11:30 in the Governor's Conference Room and I am just so proud of you. Thank you so much for serving our country. Thank you Mr. President."

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1172, by House Committee on General Government Appropriations (originally sponsored by Representatives Simpson, Nelson and Rolfes)

Implementing a transfer of development rights program.

The measure was read the second time.

MOTION

Senator Fairley moved that the following amendment by Senators Hobbs and Swecker be adopted.

On page 5, line 31, after "forestry;" strike "and"

On page 5, line 33, after "priorities" insert "; and"

(d) Land that is in current use as a manufactured/mobile home park as defined in chapter 59.20 RCW"

Senators Fairley and Jarrett spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hobbs and Swecker on page 5, line 31 to Second Substitute House Bill No. 1172.

The motion by Senator Fairley carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Jarrett, the rules were suspended, Second Substitute House Bill No. 1172 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jarrett and Swecker spoke in favor of passage of the bill.

Senators Roach and Honeyford spoke against passage of the bill.

MOTION

On motion of Senator Marr, Senators Haugen, Jacobsen, Ranker and Rockefeller were excused.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1172 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1172 as amended by the Senate and

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1347, by House Committee on Ways & Means (originally sponsored by Representatives Santos, Roach, Morrell, Moeller, Chase and Roberts)

Regarding financial education.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Ways & Means be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.300.450 and 2004 c 247 s 2 are each amended to read as follows:

(1) A financial ~~((literacy))~~ education public-private partnership is established, composed of ~~((up to four members representing the legislature, one from and appointed by the office of the superintendent of public instruction, one from and appointed by the department of financial institutions, up to four from the financial services sector, and four educators. One or two members of the senate, one of whom is a member of the senate committee on financial services, insurance and housing, shall be appointed by the president of the senate. One or two members of the house of representatives, one of whom is a member of the house committee on financial institutions and insurance, shall be appointed by the speaker of the house of representatives. The superintendent of public instruction shall appoint the members from the financial services sector and educator members-))~~ the following members:

(a) Four members of the legislature, with one member from each caucus of the house of representatives appointed by the speaker of the house of representatives, and one member from each caucus of the senate appointed by the president of the senate;

(b) Four representatives from the private for-profit and nonprofit financial services sector, including at least one representative from the jumpstart coalition, to be appointed by the governor;

(c) Four teachers to be appointed by the superintendent of public instruction, with one each representing the elementary, middle, secondary, and postsecondary education sectors;

(d) A representative from the department of financial institutions to be appointed by the director;

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(e) Two representatives from the office of the superintendent of public instruction, with one involved in curriculum development and one involved in teacher professional development, to be appointed by the superintendent.

(2) The chair of the partnership shall be selected by the members of the partnership from among the legislative members.

~~((2))~~ (3) To the extent funds are appropriated or are available for this purpose, the partnership may hire a staff person who shall reside in the office of the superintendent of public instruction for administrative purposes. Additional technical and logistical support may be provided by the office of the superintendent of public instruction, the department of financial institutions, the organizations composing the partnership, and other participants in the financial ((literacy)) education public-private partnership. ~~((The superintendent of public instruction shall compile the initial list of members and convene the first meeting of the partnership.~~

~~((3))~~ (4) The members of the ((committee)) partnership shall be appointed by ((July 1, 2004)) August 1, 2009.

~~((4))~~ (5) Legislative members of the partnership shall receive per diem and travel under RCW 44.04.120.

~~((5))~~ (6) Travel and other expenses of members of the partnership shall be provided by the agency, association, or organization that member represents.

(7) This section shall be implemented to the extent funds are available.

Sec. 2. RCW 28A.300.460 and 2007 c 459 s 2 are each amended to read as follows:

(1) The task of the financial ((literacy)) education public-private partnership is to seek out and determine the best methods of equipping students with the knowledge and skills they need, before they become self-supporting, in order for them to make critical decisions regarding their personal finances. The components of personal financial ((literacy examined)) education shall include ~~((at a minimum, consumer financial education, personal finance, and personal credit. The partnership shall identify the types of outcome measures expected from participating districts and students, in accordance with the definitions and outcomes developed under RCW 28A.300.455))~~ the achievement of skills and knowledge necessary to make informed judgments and effective decisions regarding earning, spending, and the management of money and credit.

(2) In carrying out its task, and to the extent funds are available, the partnership shall:

(a) Communicate to school districts the financial education standards adopted under section 3 of this act, other important financial education skills and content knowledge, and strategies for expanding the provision and increasing the quality of financial education instruction;

(b) Review on an ongoing basis financial education curriculum that is available to school districts, including instructional materials and programs and schoolwide programs that include the important financial skills and content knowledge;

(c) Develop evaluation standards and a procedure for endorsing financial education curriculum that the partnership determines should be recommended for use in school districts;

(d) Identify assessments and outcome measures that schools and communities may use to determine whether students have met the financial education standards adopted under section 3 of this act;

(e) Monitor and provide guidance for professional development for educators regarding financial education, including ways that teachers at different grade levels may integrate financial skills and content knowledge into mathematics, social studies, and other course content areas;

(f) Work with the office of the superintendent of public instruction and the professional educator standards board to create professional development that could lead to a certificate endorsement or other certification of competency in financial education;

(g) Develop academic guidelines and standards-based protocols for use by classroom volunteers who participate in delivering financial education to students in the public schools; and

(h) Provide an annual report beginning December 1, 2009, as provided in section 4 of this act, to the governor, the superintendent of public instruction, and the committees of the legislature with oversight over K-12 education and higher education.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.300 RCW to read as follows:

(1) Subject to funds appropriated specifically for this purpose, the office of the superintendent of public instruction and the financial education public-private partnership shall provide technical assistance and grants to support demonstration projects for district-wide adoption and implementation of the financial education learning standards under this section.

(2) School districts may apply on a competitive basis to participate as a demonstration project. The office and the partnership shall select up to four school districts as demonstration projects, with two districts located in eastern Washington and two districts located in western Washington, if possible.

(3) Selected districts must:

(a) Adopt the jumpstart coalition national standards in K-12 personal finance education as the essential academic learning requirements for financial education and provide students with an opportunity to master the standards;

(b) Make a commitment to integrate financial education into instruction at all grade levels and in all schools in the district;

(c) Establish local partnerships within the community to promote financial education in the schools; and

(d) Conduct pre- and post-testing of students' financial literacy.

(4) The office of the superintendent of public instruction, with the advice of the financial education public-private partnership, shall provide assistance to the demonstration projects regarding curriculum, professional development, and innovative instructional programs to implement the financial education standards.

(5) The selected districts must report findings and results of the demonstration project to the office of the superintendent of public instruction and appropriate committees of the legislature by April 30, 2011.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.300 RCW to read as follows:

The annual report from the financial education public-private partnership, provided funds are available, shall include:

(1) Results from the jumpstart survey of personal financial literacy;

(2) Progress toward statewide adoption of financial education standards by school districts;

(3) Professional development activities related to equipping teachers with the knowledge and skills to teach financial education;

(4) Activities related to financial education curriculum development; and

(5) Any recommendations for policies or other activities to support financial education instruction in public schools.

Sec. 5. RCW 28A.300.465 and 2004 c 247 s 6 are each amended to read as follows:

The Washington financial ((literacy)) education public-private partnership account is hereby created in the custody of the state treasurer. The purpose of the account is to support the

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financial ((literacy)) education public-private partnership, and to provide financial ((literacy)) education opportunities for students and financial ((literacy)) education professional development opportunities for the teachers providing those educational opportunities. Revenues to the account may include gifts from the private sector, federal funds, and any appropriations made by the legislature or other sources. Grants and their administration shall be paid from the account. Only the superintendent of public instruction or the superintendent's designee may authorize expenditures from the account, and only at the direction of the partnership. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

6.1.1.1. RCW 28A.300.455 (Financial literacy public-private partnership responsibilities--Definition of financial literacy--Strategies--Reports) and 2007 c 459 s 1, 2005 c 277 s 2, & 2004 c 247 s 3;

6.1.1.2. RCW 28A.300.470 (Financial literacy public-private partnership--Expiration) and 2007 c 459 s 4 & 2004 c 247 s 7; and

6.1.1.3. RCW 28A.230.205 (Financial literary skills--Duties of the superintendent of public instruction and of school districts) and 2007 c 459 s 3."

Senator McAuliffe spoke in favor of adoption of the committee striking amendment.

MOTION

On motion of Senator Hatfield, Senator Hobbs was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Substitute House Bill No. 1347.

The motion by Senator McAuliffe carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28A.300.450, 28A.300.460, and 28A.300.465; adding new sections to chapter 28A.300 RCW; and repealing RCW 28A.300.455, 28A.300.470, and 28A.230.205."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 1347 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Parlette and Keiser spoke in favor of passage of the bill.

MOTION

On motion of Senator Brandland, Senator Morton was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1347 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1347 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 38; Nays, 7; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Sheldon, Shin, Stevens, Swecker and Tom

Voting nay: Senators Brandland, Hatfield, Hewitt, Holmquist, Honeyford, Schoesler and Zarelli

Excused: Senators Hobbs, Jacobsen, Morton and Rockefeller

SUBSTITUTE HOUSE BILL NO. 1347 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 2285, by Representatives Flannigan and Simpson

Addressing the formation of local improvement districts and utility local improvement districts comprised of property in more than one city or town.

The measure was read the second time.

MOTION

On motion of Senator Fairley, the rules were suspended, Engrossed House Bill No. 2285 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

MOTION

On motion of Senator Delvin, Senator Brandland was excused.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2285.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2285 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 14; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Shin, Swecker and Tom

Voting nay: Senators Becker, Benton, Carrell, Hewitt, Holmquist, Honeyford, McCaslin, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senators Brandland, Hobbs, Morton and Rockefeller

ENGROSSED HOUSE BILL NO. 2285, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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At 10:09 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:56 a.m. by President Owen.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1919, by House Committee on Human Services (originally sponsored by Representatives Kagi, Goodman, Pedersen, Rodne, Roberts, Hinkle, Dickerson, Moeller, Santos and Wood)

Operating and administering a drug court program.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.96A.350 and 2008 c 329 s 918 are each amended to read as follows:

(1) The criminal justice treatment account is created in the state treasury. Moneys in the account may be expended solely for: (a) Substance abuse treatment and treatment support services for offenders with an addiction or a substance abuse problem that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington state; (b) the provision of drug and alcohol treatment services and treatment support services for nonviolent offenders within a drug court program; ~~((and))~~ (c) the administrative and overhead costs associated with the operation of a drug court; and (d) during the 2007-2009 biennium, operation of the integrated crisis response and intensive case management pilots contracted with the department of social and health services division of alcohol and substance abuse. Moneys in the account may be spent only after appropriation.

(2) For purposes of this section:

(a) "Treatment" means services that are critical to a participant's successful completion of his or her substance abuse treatment program, but does not include the following services: Housing other than that provided as part of an inpatient substance abuse treatment program, vocational training, and mental health counseling; and

(b) "Treatment support" means transportation to or from inpatient or outpatient treatment services when no viable alternative exists, and child care services that are necessary to ensure a participant's ability to attend outpatient treatment sessions.

(3) Revenues to the criminal justice treatment account consist of: (a) Funds transferred to the account pursuant to this section; and (b) any other revenues appropriated to or deposited in the account.

(4)(a) For the fiscal biennium beginning July 1, 2003, the state treasurer shall transfer eight million nine hundred fifty thousand dollars from the general fund into the criminal justice treatment account, divided into eight equal quarterly payments. For the fiscal year beginning July 1, 2005, and each subsequent fiscal year, the state treasurer shall transfer eight million two hundred fifty thousand dollars from the general fund to the criminal justice treatment account, divided into four equal quarterly payments. For the fiscal year beginning July 1, 2006, and each subsequent fiscal year, the amount transferred shall be increased on an annual basis by the implicit price deflator as published by the federal bureau of labor statistics.

(b) For the fiscal biennium beginning July 1, 2003, and each biennium thereafter, the state treasurer shall transfer two million

nine hundred eighty-four thousand dollars from the general fund into the violence reduction and drug enforcement account, divided into eight quarterly payments. The amounts transferred pursuant to this subsection (4)(b) shall be used solely for providing drug and alcohol treatment services to offenders confined in a state correctional facility who are assessed with an addiction or a substance abuse problem that if not treated would result in addiction.

(c) In each odd-numbered year, the legislature shall appropriate the amount transferred to the criminal justice treatment account in (a) of this subsection to the division of alcohol and substance abuse for the purposes of subsection (5) of this section.

(5) Moneys appropriated to the division of alcohol and substance abuse from the criminal justice treatment account shall be distributed as specified in this subsection. The department shall serve as the fiscal agent for purposes of distribution. Until July 1, 2004, the department may not use moneys appropriated from the criminal justice treatment account for administrative expenses and shall distribute all amounts appropriated under subsection (4)(c) of this section in accordance with this subsection. Beginning in July 1, 2004, the department may retain up to three percent of the amount appropriated under subsection (4)(c) of this section for its administrative costs.

(a) Seventy percent of amounts appropriated to the division from the account shall be distributed to counties pursuant to the distribution formula adopted under this section. The division of alcohol and substance abuse, in consultation with the department of corrections, the sentencing guidelines commission, the Washington state association of counties, the Washington state association of drug court professionals, the superior court judges' association, the Washington association of prosecuting attorneys, representatives of the criminal defense bar, representatives of substance abuse treatment providers, and any other person deemed by the division to be necessary, shall establish a fair and reasonable methodology for distribution to counties of moneys in the criminal justice treatment account. County or regional plans submitted for the expenditure of formula funds must be approved by the panel established in (b) of this subsection.

(b) Thirty percent of the amounts appropriated to the division from the account shall be distributed as grants for purposes of treating offenders against whom charges are filed by a county prosecuting attorney. The division shall appoint a panel of representatives from the Washington association of prosecuting attorneys, the Washington association of sheriffs and police chiefs, the superior court judges' association, the Washington state association of counties, the Washington defender's association or the Washington association of criminal defense lawyers, the department of corrections, the Washington state association of drug court professionals, substance abuse treatment providers, and the division. The panel shall review county or regional plans for funding under (a) of this subsection and grants approved under this subsection. The panel shall attempt to ensure that treatment as funded by the grants is available to offenders statewide.

(6) The county alcohol and drug coordinator, county prosecutor, county sheriff, county superior court, a substance abuse treatment provider appointed by the county legislative authority, a member of the criminal defense bar appointed by the county legislative authority, and, in counties with a drug court, a representative of the drug court shall jointly submit a plan, approved by the county legislative authority or authorities, to the panel established in subsection (5)(b) of this section, for disposition of all the funds provided from the criminal justice treatment account within that county. The funds shall be used solely to provide approved alcohol and substance abuse treatment pursuant to RCW 70.96A.090, ~~((and))~~ treatment

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support services, and for the administrative and overhead costs associated with the operation of a drug court.

(a) No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent on the administrative and overhead costs associated with the operation of a drug court.

(b) No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent for treatment support services.

(7) Counties are encouraged to consider regional agreements and submit regional plans for the efficient delivery of treatment under this section.

(8) Moneys allocated under this section shall be used to supplement, not supplant, other federal, state, and local funds used for substance abuse treatment.

(9) Counties must meet the criteria established in RCW 2.28.170(3)(b).

(10) The authority under this section to use funds from the criminal justice treatment account for the administrative and overhead costs associated with the operation of a drug court expires June 30, 2013.

Sec. 2. RCW 2.28.170 and 2006 c 339 s 106 are each amended to read as follows:

(1) Counties may establish and operate drug courts.

(2) For the purposes of this section, "drug court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and substance abuse among nonviolent, substance abusing felony and nonfelony offenders, whether adult or juvenile, by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic drug testing; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a drug court program must first:

(i) Exhaust all federal funding that is available to support the operations of its drug court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for drug court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for drug court operations and associated services. However, from the effective date of this act until June 30, 2013, no match is required for state moneys expended for the administrative and overhead costs associated with the operation of a drug court pursuant to RCW 70.96A.350.

(b) Any county that establishes a drug court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The drug court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from substance abuse treatment;

(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) During which the defendant used a firearm; or

(D) During which the defendant caused substantial or great bodily harm or death to another person."

Senator Kline spoke in favor of adoption of the committee striking amendment.

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The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Substitute House Bill No. 1919.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "funding;" strike the remainder of the title and insert "and amending RCW 70.96A.350 and 2.28.1701"

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1919 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1919 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1919 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Pflug

Excused: Senators Hobbs and Rockefeller

SUBSTITUTE HOUSE BILL NO. 1919 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 12:02 p.m., on motion of Senator Eide, the Senate recessed until 1:30 p.m..

AFTERNOON SESSION

The Senate was called to order at 1:30 p.m. by President Owen.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1025, by House Committee on Education Appropriations (originally sponsored by Representatives Armstrong, Uptegrove and Wallace)

Requiring disclosure of certain information relating to higher education course materials.

The measure was read the second time.

MOTION

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On motion of Senator Kilmer, the rules were suspended, Second Substitute House Bill No. 1025 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Becker spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senators Brown, Kauffman and Keiser were excused.

MOTION

On motion of Senator Brandland, Senators Benton, Hewitt, McCaslin, Pflug and Swecker were excused.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1025.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1025 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, Keiser, McCaslin, Pflug and Rockefeller

SECOND SUBSTITUTE HOUSE BILL NO. 1025, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Brandland, Senator Carrell was excused.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1484, by House Committee on Capital Budget (originally sponsored by Representatives Van De Wege, Orcutt, Hurst, McCoy and Blake)

Expanding the riparian open space program to include lands that contain habitat of species that are federally listed as threatened or endangered. Revised for 2nd Substitute: Expanding the riparian open space program to include lands that contain critical habitat of threatened or endangered species.

The measure was read the second time.

MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 76.09.040 and 2000 c 11 s 3 are each amended to read as follows:

(1) Where necessary to accomplish the purposes and policies stated in RCW 76.09.010, and to implement the

provisions of this chapter, the board shall adopt forest practices rules pursuant to chapter 34.05 RCW and in accordance with the procedures enumerated in this section that:

(a) Establish minimum standards for forest practices;

(b) Provide procedures for the voluntary development of resource management plans which may be adopted as an alternative to the minimum standards in (a) of this subsection if the plan is consistent with the purposes and policies stated in RCW 76.09.010 and the plan meets or exceeds the objectives of the minimum standards;

(c) Set forth necessary administrative provisions;

(d) Establish procedures for the collection and administration of forest practice fees as set forth by this chapter; and

(e) Allow for the development of watershed analyses.

Forest practices rules pertaining to water quality protection shall be adopted by the board after reaching agreement with the director of the department of ecology or the director's designee on the board with respect thereto. All other forest practices rules shall be adopted by the board.

Forest practices rules shall be administered and enforced by either the department or the local governmental entity as provided in this chapter. Such rules shall be adopted and administered so as to give consideration to all purposes and policies set forth in RCW 76.09.010.

(2) The board shall prepare proposed forest practices rules.

In addition to any forest practices rules relating to water quality protection proposed by the board, the department of ecology may submit to the board proposed forest practices rules relating to water quality protection.

Prior to initiating the rule-making process, the proposed rules shall be submitted for review and comments to the department of fish and wildlife and to the counties of the state. After receipt of the proposed forest practices rules, the department of fish and wildlife and the counties of the state shall have thirty days in which to review and submit comments to the board, and to the department of ecology with respect to its proposed rules relating to water quality protection. After the expiration of such thirty day period the board and the department of ecology shall jointly hold one or more hearings on the proposed rules pursuant to chapter 34.05 RCW. At such hearing(s) any county may propose specific forest practices rules relating to problems existing within such county. The board may adopt and the department of ecology may approve such proposals if they find the proposals are consistent with the purposes and policies of this chapter.

(3) The board shall establish by rule a program for the acquisition of riparian open space ~~((program that includes acquisition of a fee interest in, or at the landowner's option, a conservation easement on))~~ and critical habitat for threatened or endangered species as designated by the board. Acquisition must be a conservation easement. Lands eligible for acquisition are forest lands within unconfined ((avulsing)) channel migration zones or forest lands containing critical habitat for threatened or endangered species as designated by the board. Once acquired, these lands may be held and managed by the department, transferred to another state agency, transferred to an appropriate local government agency, or transferred to a private nonprofit nature conservancy corporation, as defined in RCW 64.04.130, in fee or transfer of management obligation. The board shall adopt rules governing the acquisition by the state or donation to the state of such interest in lands including the right of refusal if the lands are subject to unacceptable liabilities. The rules shall include definitions of qualifying lands, priorities for acquisition, and provide for the opportunity to transfer such lands with limited warranties and with a description of boundaries that does not require full surveys where the cost of securing the surveys would be unreasonable in relation to the value of the lands conveyed. The rules shall provide for the management of the lands for ecological protection or fisheries enhancement. ~~((Because there are few, if any, comparable sales of forest land within unconfined avulsing channel migration zones, separate from the other lands or assets, these lands are likely to be extraordinarily difficult to appraise and the cost of a conventional appraisal often would be unreasonable in relation~~

to the value of the land involved. Therefore, for the purposes of voluntary sales under this section, the legislature declares that these lands are presumed to have a value equal to: (a) The acreage in the sale multiplied by the average value of commercial forest land in the region under the land value tables used for property tax purposes under RCW 84.33.120, plus (b) the cruised volume of any timber located within the channel migration multiplied by the appropriate quality code stumpage value for timber of the same species shown on the appropriate table used for timber harvest excise tax purposes under RCW 84.33.091. For purposes of this section, there shall be an eastside region and a westside region as defined in the forests and fish report as defined in RCW 76.09.020-.) For the purposes of conservation easements entered into under this section, the following apply: (a) For conveyances of a conservation easement in which the landowner conveys an interest in the trees only, the compensation must include the timber value component, as determined by the cruised volume of any timber located within the channel migration zone or critical habitat for threatened or endangered species as designated by the board, multiplied by the appropriate quality code stumpage value for timber of the same species shown on the appropriate table used for timber harvest excise tax purposes under RCW 84.33.091; (b) for conveyances of a conservation easement in which the landowner conveys interests in both land and trees, the compensation must include the timber value component in (a) of this subsection plus such portion of the land value component as determined just and equitable by the department. The land value component must be the acreage of qualifying channel migration zone or critical habitat for threatened or endangered species as determined by the board, to be conveyed, multiplied by the average per acre value of all commercial forest land in western Washington or the average for eastern Washington, whichever average is applicable to the qualifying lands. The department must determine the western and eastern Washington averages based on the land value tables established by RCW 84.33.140 and revised annually by the department of revenue.

(4) Subject to appropriations sufficient to cover the cost of such an acquisition program and the related costs of administering the program, the department ~~(is directed to purchase a fee interest or, at the owner's option,))~~ must establish a conservation easement in land that an owner tenders for purchase; provided that such lands have been taxed as forest lands and are located within an unconfined ~~(avulsing)~~ channel migration zone or contain critical habitat for threatened or endangered species as designated by the board. Lands acquired under this section shall become riparian or habitat open space. These acquisitions shall not be deemed to trigger the compensating tax of chapters 84.33 and 84.34 RCW.

(5) Instead of offering to sell interests in qualifying lands, owners may elect to donate the interests to the state.

(6) Any acquired interest in qualifying lands by the state under this section shall be managed as riparian open space or critical habitat.

Sec. 2. RCW 84.33.140 and 2007 c 54 s 24 are each amended to read as follows:

(1) When land has been designated as forest land under RCW 84.33.130, a notation of the designation shall be made each year upon the assessment and tax rolls. A copy of the notice of approval together with the legal description or assessor's parcel numbers for the land shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded.

(2) In preparing the assessment roll as of January 1, 2002, for taxes payable in 2003 and each January 1st thereafter, the assessor shall list each parcel of designated forest land at a value with respect to the grade and class provided in this subsection and adjusted as provided in subsection (3) of this section. The assessor shall compute the assessed value of the land using the same assessment ratio applied generally in computing the assessed value of other property in the county. Values for the several grades of bare forest land shall be as follows:

LAND GRADE	OPERABILITY CLASS	VALUES PER ACRE
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1	1	\$234
1	2	229
	3	217
	4	157
	1	198
2	2	190
	3	183
	4	132
	1	154
3	2	149
	3	148
	4	113
	1	117
4	2	114
	3	113
	4	86
	1	85
5	2	78
	3	77
	4	52
	1	43
6	2	39
	3	39
	4	37
	1	21
7	2	21
	3	20
	4	20
8		1

(3) On or before December 31, 2001, the department shall adjust by rule under chapter 34.05 RCW, the forest land values contained in subsection (2) of this section in accordance with this subsection, and shall certify the adjusted values to the assessor who will use these values in preparing the assessment roll as of January 1, 2002. For the adjustment to be made on or before December 31, 2001, for use in the 2002 assessment year, the department shall:

(a) Divide the aggregate value of all timber harvested within the state between July 1, 1996, and June 30, 2001, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(b) Divide the aggregate value of all timber harvested within the state between July 1, 1995, and June 30, 2000, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(c) Adjust the forest land values contained in subsection (2) of this section by a percentage equal to one-half of the percentage change in the average values of harvested timber reflected by comparing the resultant values calculated under (a) and (b) of this subsection.

(4) For the adjustments to be made on or before December 31, 2002, and each succeeding year thereafter, the same procedure described in subsection (3) of this section shall be followed using harvester excise tax returns filed under RCW 84.33.074. However, this adjustment shall be made to the prior year's adjusted value, and the five-year periods for calculating average harvested timber values shall be successively one year more recent.

(5) Land graded, assessed, and valued as forest land shall continue to be so graded, assessed, and valued until removal of designation by the assessor upon the occurrence of any of the following:

(a) Receipt of notice from the owner to remove the designation;

(b) Sale or transfer to an ownership making the land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of forest land designation continuance, except transfer to an owner who is an heir or devisee of a deceased owner, shall not, by itself, result in

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removal of designation. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 82.45.150. The notice of continuance shall be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated under subsection (11) of this section shall become due and payable by the seller or transferor at time of sale. The auditor shall not accept an instrument of conveyance regarding designated forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (11) of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that:

(i) The land is no longer primarily devoted to and used for growing and harvesting timber. However, land shall not be removed from designation if a governmental agency, organization, or other recipient identified in subsection (13) or (14) of this section as exempt from the payment of compensating tax has manifested its intent in writing or by other official action to acquire a property interest in the designated forest land by means of a transaction that qualifies for an exemption under subsection (13) or (14) of this section. The governmental agency, organization, or recipient shall annually provide the assessor of the county in which the land is located reasonable evidence in writing of the intent to acquire the designated land as long as the intent continues or within sixty days of a request by the assessor. The assessor may not request this evidence more than once in a calendar year;

(ii) The owner has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW or any applicable rules under Title 76 RCW; or

(iii) Restocking has not occurred to the extent or within the time specified in the application for designation of such land.

(6) Land shall not be removed from designation if there is a governmental restriction that prohibits, in whole or in part, the owner from harvesting timber from the owner's designated forest land. If only a portion of the parcel is impacted by governmental restrictions of this nature, the restrictions cannot be used as a basis to remove the remainder of the forest land from designation under this chapter. For the purposes of this section, "governmental restrictions" includes: (a) Any law, regulation, rule, ordinance, program, or other action adopted or taken by a federal, state, county, city, or other governmental entity; or (b) the land's zoning or its presence within an urban growth area designated under RCW 36.70A.110.

(7) The assessor shall have the option of requiring an owner of forest land to file a timber management plan with the assessor upon the occurrence of one of the following:

(a) An application for designation as forest land is submitted; or

(b) Designated forest land is sold or transferred and a notice of continuance, described in subsection (5)(c) of this section, is signed.

(8) If land is removed from designation because of any of the circumstances listed in subsection (5)(a) through (c) of this section, the removal shall apply only to the land affected. If land is removed from designation because of subsection (5)(d) of this section, the removal shall apply only to the actual area of land that is no longer primarily devoted to the growing and harvesting of timber, without regard to any other land that may have been included in the application and approved for designation, as long as the remaining designated forest land meets the definition of forest land contained in RCW 84.33.035.

(9) Within thirty days after the removal of designation as forest land, the assessor shall notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or

owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038.

(10) Unless the removal is reversed on appeal a copy of the notice of removal with a notation of the action, if any, upon appeal, together with the legal description or assessor's parcel numbers for the land removed from designation shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded and a notation of removal from designation shall immediately be made upon the assessment and tax rolls. The assessor shall revalue the land to be removed with reference to its true and fair value as of January 1st of the year of removal from designation. Both the assessed value before and after the removal of designation shall be listed. Taxes based on the value of the land as forest land shall be assessed and payable up until the date of removal and taxes based on the true and fair value of the land shall be assessed and payable from the date of removal from designation.

(11) Except as provided in subsection (5)(c), (13), or (14) of this section, a compensating tax shall be imposed on land removed from designation as forest land. The compensating tax shall be due and payable to the treasurer thirty days after the owner is notified of the amount of this tax. As soon as possible after the land is removed from designation, the assessor shall compute the amount of compensating tax and mail a notice to the owner of the amount of compensating tax owed and the date on which payment of this tax is due. The amount of compensating tax shall be equal to the difference between the amount of tax last levied on the land as designated forest land and an amount equal to the new assessed value of the land multiplied by the dollar rate of the last levy extended against the land, multiplied by a number, in no event greater than nine, equal to the number of years for which the land was designated as forest land, plus compensating taxes on the land at forest land values up until the date of removal and the prorated taxes on the land at true and fair value from the date of removal to the end of the current tax year.

(12) Compensating tax, together with applicable interest thereon, shall become a lien on the land which shall attach at the time the land is removed from designation as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(13) The compensating tax specified in subsection (11) of this section shall not be imposed if the removal of designation under subsection (5) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) A donation of fee title, development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections, or the sale or transfer of fee title to a governmental entity or a nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW or approved for state natural resources conservation area purposes as defined in chapter 79.71 RCW. At such time as the land is not used for the purposes enumerated, the compensating tax specified in subsection (11) of this section shall be imposed upon the current owner;

(d) The sale or transfer of fee title to the parks and recreation commission for park and recreation purposes;

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(e) Official action by an agency of the state of Washington or by the county or city within which the land is located that disallows the present use of the land;

(f) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(g) The creation, sale, or transfer of a ~~(fee interest or a)~~ conservation easement ~~((for the riparian open space program))~~ of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040; or

(h) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under this chapter, or classified under chapter 84.34 RCW continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (13)(h).

(14) In a county with a population of more than one million inhabitants, the compensating tax specified in subsection (11) of this section shall not be imposed if the removal of designation as forest land under subsection (5) of this section resulted solely from:

(a) An action described in subsection (13) of this section; or

(b) A transfer of a property interest to a government entity, or to a nonprofit historic preservation corporation or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, to protect or enhance public resources, or to preserve, maintain, improve, restore, limit the future use of, or otherwise to conserve for public use or enjoyment, the property interest being transferred. At such time as the property interest is not used for the purposes enumerated, the compensating tax shall be imposed upon the current owner.

Sec. 3. RCW 84.34.108 and 2007 c 54 s 25 are each amended to read as follows:

(1) When land has once been classified under this chapter, a notation of the classification shall be made each year upon the assessment and tax rolls and the land shall be valued pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a portion of the classification by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove all or a portion of the classification;

(b) Sale or transfer to an ownership, except a transfer that resulted from a default in loan payments made to or secured by a governmental agency that intends to or is required by law or regulation to resell the property for the same use as before, making all or a portion of the land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of classification continuance, except transfer to an owner who is an heir or devisee of a deceased owner shall not, by itself, result in removal of classification. The notice of continuance shall be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all additional taxes calculated pursuant to subsection (4) of this section shall become due and payable by the seller or transferor at time of sale. The auditor shall not accept an instrument of conveyance regarding classified land for filing or recording unless the new owner has signed the notice of continuance or the additional tax has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (4) of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that all or a portion of the land no longer meets the criteria for classification under this chapter. The criteria for classification pursuant to this chapter continue to apply after classification has been granted.

The granting authority, upon request of an assessor, shall provide reasonable assistance to the assessor in making a

determination whether the land continues to meet the qualifications of RCW 84.34.020 (1) or (3). The assistance shall be provided within thirty days of receipt of the request.

(2) Land may not be removed from classification because of:

(a) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120; or

(b) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.

(3) Within thirty days after such removal of all or a portion of the land from current use classification, the assessor shall notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038.

(4) Unless the removal is reversed on appeal, the assessor shall revalue the affected land with reference to its true and fair value on January 1st of the year of removal from classification. Both the assessed valuation before and after the removal of classification shall be listed and taxes shall be allocated according to that part of the year to which each assessed valuation applies. Except as provided in subsection (6) of this section, an additional tax, applicable interest, and penalty shall be imposed which shall be due and payable to the treasurer thirty days after the owner is notified of the amount of the additional tax. As soon as possible, the assessor shall compute the amount of additional tax, applicable interest, and penalty and the treasurer shall mail notice to the owner of the amount thereof and the date on which payment is due. The amount of the additional tax, applicable interest, and penalty shall be determined as follows:

(a) The amount of additional tax shall be equal to the difference between the property tax paid as "open space land," "farm and agricultural land," or "timber land" and the amount of property tax otherwise due and payable for the seven years last past had the land not been so classified;

(b) The amount of applicable interest shall be equal to the interest upon the amounts of the additional tax paid at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the land had been assessed at a value without regard to this chapter;

(c) The amount of the penalty shall be as provided in RCW 84.34.080. The penalty shall not be imposed if the removal satisfies the conditions of RCW 84.34.070.

(5) Additional tax, applicable interest, and penalty, shall become a lien on the land which shall attach at the time the land is removed from classification under this chapter and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which the land may become charged or liable. This lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any additional tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(6) The additional tax, applicable interest, and penalty specified in subsection (4) of this section shall not be imposed if the removal of classification pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other land located within the state of Washington;

(b)(i) A taking through the exercise of the power of eminent domain, or (ii) sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power, said entity having manifested its intent in writing or by other official action;

(c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of the property;

(d) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of the land;

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(e) Transfer of land to a church when the land would qualify for exemption pursuant to RCW 84.36.020;

(f) Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections. At such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in subsection (4) of this section shall be imposed;

(g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(e);

(h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification;

(i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(j) The creation, sale, or transfer of a ~~((fee interest or a))~~ conservation easement ~~((for the riparian open space program))~~ of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040; or

(k) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under chapter 84.33 RCW, or classified under this chapter continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (6)(k).

Sec. 4. RCW 76.09.020 and 2003 c 311 s 3 are each amended to read as follows:

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

(1) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Appeals board" means the forest practices appeals board created by RCW 76.09.210.

(3) "Aquatic resources" includes water quality, salmon, other species of the vertebrate classes Cephalaspidomorphi and Osteichthyes identified in the forests and fish report, the Columbia torrent salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton olympian*), the Dunn's salamander (*Plethodon dunnii*), the Van Dyke's salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and their respective habitats.

(4) "Commissioner" means the commissioner of public lands.

(5) "Contiguous" means land adjoining or touching by common corner or otherwise. Land having common ownership divided by a road or other right-of-way shall be considered contiguous.

(6) "Conversion to a use other than commercial timber operation" means a bona fide conversion to an active use which is incompatible with timber growing and as may be defined by forest practices rules.

(7) "Department" means the department of natural resources.

(8) "Fish passage barrier" means any artificial instream structure that impedes the free passage of fish.

(9) "Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. Forest land does not include agricultural land that is or was enrolled in the conservation reserve enhancement program by contract if such agricultural land was historically used for agricultural purposes and the landowner intends to continue to use the land for agricultural purposes in the future. As it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, the term "forest land" excludes:

(a) Residential home sites, which may include up to five acres; and

(b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens, and the land on which appurtenances necessary to the production, preparation, or sale of crops, fruit, dairy products, fish, and livestock exist.

(10) "Forest landowner" means any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner. However, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest landowner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

(11) "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- (a) Road and trail construction;
- (b) Harvesting, final and intermediate;
- (c) Precommercial thinning;
- (d) Reforestation;
- (e) Fertilization;
- (f) Prevention and suppression of diseases and insects;
- (g) Salvage of trees; and
- (h) Brush control.

"Forest practice" shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

(12) "Forest practices rules" means any rules adopted pursuant to RCW 76.09.040.

(13) "Forest road," as it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, means a road or road segment that crosses land that meets the definition of forest land, but excludes residential access roads.

(14) "Forest trees" does not include hardwood trees cultivated by agricultural methods in growing cycles shorter than fifteen years if the trees were planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees. "Forest trees" includes Christmas trees, but does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(15) "Forests and fish report" means the forests and fish report to the board dated April 29, 1999.

(16) "Application" means the application required pursuant to RCW 76.09.050.

(17) "Operator" means any person engaging in forest practices except an employee with wages as his or her sole compensation.

(18) "Person" means any individual, partnership, private, public, or municipal corporation, county, the department or other state or local governmental entity, or association of individuals of whatever nature.

(19) "Public resources" means water, fish and wildlife, and in addition shall mean capital improvements of the state or its political subdivisions.

(20) "Small forest landowner" has the same meaning as defined in RCW 76.09.450.

(21) "Timber" means forest trees, standing or down, of a commercial species, including Christmas trees. However, "timber" does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(22) "Timber owner" means any person having all or any part of the legal interest in timber. Where such timber is subject to a contract of sale, "timber owner" shall mean the contract purchaser.

(23) "Board" means the forest practices board created in RCW 76.09.030.

(24) "Unconfined ~~((avulsing))~~ channel migration zone" means the area within which the active channel of an unconfined ~~((avulsing))~~ stream is prone to move and where the movement would result in a potential near-term loss of riparian forest

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adjacent to the stream. Sizeable islands with productive timber may exist within the zone.

(25) "Unconfined (~~(avulsing))~~ stream" means generally fifth order or larger waters that experience abrupt shifts in channel location, creating a complex floodplain characterized by extensive gravel bars, disturbance species of vegetation of variable age, numerous side channels, wall-based channels, oxbow lakes, and wetland complexes. Many of these streams have dikes and levees that may temporarily or permanently restrict channel movement."

Senator Jacobsen spoke in favor of adoption of the committee striking amendment.

MOTION

Senator Regala moved that the following amendment by Senator Regala to the committee striking amendment be adopted.

On page 10, line 36 of the amendment, after "than" strike "one million" and insert "~~((one million))~~ six hundred thousand"

On page 14, after line 35 of the amendment, insert the following:

"**Sec. 4.** RCW 84.33.145 and 2001 c 249 s 4 are each amended to read as follows:

(1) If no later than thirty days after removal of designation the owner applies for classification under RCW 84.34.020 (1), (2), or (3), then the designated forest land shall not be considered removed from designation for purposes of the compensating tax under RCW 84.33.140 until the application for current use classification under chapter 84.34 RCW is denied or the property is removed from classification under RCW 84.34.108. Upon removal of classification under RCW 84.34.108, the amount of compensating tax due under this chapter shall be equal to:

(a) The difference, if any, between the amount of tax last levied on the land as designated forest land and an amount equal to the new assessed valuation of the land when removed from classification under RCW 84.34.108 multiplied by the dollar rate of the last levy extended against the land, multiplied by

(b) A number equal to:

(i) The number of years the land was designated under this chapter, if the total number of years the land was designated under this chapter and classified under chapter 84.34 RCW is less than ten; or

(ii) Ten minus the number of years the land was classified under chapter 84.34 RCW, if the total number of years the land was designated under this chapter and classified under chapter 84.34 RCW is at least ten.

(2) Nothing in this section authorizes the continued designation under this chapter or defers or reduces the compensating tax imposed upon forest land not transferred to classification under subsection (1) of this section which does not meet the definition of forest land under RCW 84.33.035. Nothing in this section affects the additional tax imposed under RCW 84.34.108.

(3) In a county with a population of more than ~~((one million))~~ six hundred thousand inhabitants, no amount of compensating tax is due under this section if the removal from classification under RCW 84.34.108 results from a transfer of property described in RCW 84.34.108(6)."

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

Senator Regala spoke in favor of adoption of the amendment to the committee striking amendment.

POINT OF INQUIRY

Senator Morton: "Would the Senator from the 27th yield to a question? The effect what's on my desk on the printing on the bill itself, I think that the word is incorrect. It says extends the

'exception', and I think that should be 'exemption.' I'm not sure, Mr. President, how we might correct that. I would not want the misinterpretation to follow the content of the bill. I do not find any other needed corrections but there is that one on the effect and how significant that is I'm not sure."

REPLY BY THE PRESIDENT

President Owen: "That's only in the definition. That's not in the bill then?"

REMARKS BY SENATOR EIDE

Senator Eide: "Thank you Mr. President. The language of the bill does not, I guess what I want to say is the intent or the effect of the language of the bill is not in the bill itself. The language is correct inside the bill."

REMARKS BY SENATOR MORTON

Senator Morton: "Perhaps a colloquy would clear it up?"

REMARKS BY THE PRESIDENT

President Owen: "Senator Morton, the President is not in the position to explain that but possibly the staff will."

REMARKS BY SENATOR MORTON

Senator Morton: "The clustered expertise, experts here, have convinced me that we are ok with the body of the bill itself, so with that I would recommend our adoption."

REMARKS BY SENATOR JACOBSEN

Senator Jacobsen: "Another amendment has just been placed on the bar so we'll have to wait for that to be distributed."

Senator Morton spoke in favor the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Regala on page 10, line 36 to the committee striking amendment to Second Substitute House Bill No. 1484.

The motion by Senator Regala carried and the amendment to the committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Eide, further consideration of Second Substitute House Bill No. 1484 was deferred and the bill held its place on the second reading calendar.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2289, by House Committee on Capital Budget (originally sponsored by Representative McCoy)

Expanding the energy freedom program.

The measure was read the second time.

MOTION

Senator Pridemore moved that the following committee striking amendment by the Committee on Environment, Water & Energy be not adopted.

Strike everything after the enacting clause and insert the following:

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"NEW SECTION. Sec. 1. The legislature intends to modify the energy freedom program and account in order to receive federal funds and other sources of funding. Also, the legislature intends to expand the mission of the energy freedom program to accelerate energy efficiency improvements, renewable energy improvements, and deployment of innovative energy technologies. Additionally, the legislature intends to support, through the energy freedom program, research, demonstration, and commercialization of energy efficiency improvements, renewable energy improvements, and innovation energy technologies.

Sec. 2. RCW 43.325.010 and 2007 c 348 s 301 are each amended to read as follows:

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

(1) "Applicant" means the state and any political subdivision of the state, including port districts, counties, cities, towns, special purpose districts, and other municipal corporations or quasi-municipal corporations. "Applicant" may also include federally recognized tribes ~~((and))~~, state institutions of higher education with appropriate research capabilities, any organization described in section 501(c)(3) of the internal revenue code, and private entities that are eligible to receive federal funds.

(2) "Alternative fuel" means all products or energy sources used to propel motor vehicles, other than conventional gasoline, diesel, or reformulated gasoline. "Alternative fuel" includes, but is not limited to, cellulose, liquefied petroleum gas, liquefied natural gas, compressed natural gas, biofuels, biodiesel fuel, E85 motor fuel, fuels containing seventy percent or more by volume of alcohol fuel, fuels that are derived from biomass, hydrogen fuel, anhydrous ammonia fuel, nonhazardous motor fuel, or electricity, excluding onboard electric generation.

(3) "Assistance" includes loans, leases, product purchases, or other forms of financial or technical assistance.

(4) "Biofuel" includes, but is not limited to, biodiesel, ethanol, and ethanol blend fuels and renewable liquid natural gas or liquid compressed natural gas made from biogas.

(5) "Biogas" includes waste gases derived from landfills and wastewater treatment plants and dairy and farm wastes.

(6) "Cellulose" means lignocellulosic, hemicellulosic, or other cellulosic matter that is available on a renewable or recurring basis, including dedicated energy crops and trees, wood and wood residues, plants, grasses, agricultural residues, fibers, animal wastes and other waste materials, and municipal solid waste.

(7) "Coordinator" means the person appointed by the director of the department of community, trade, and economic development.

(8) "Department" means the department of community, trade, and economic development.

(9) "Director" means the director of the department of community, trade, and economic development.

(10) "Energy efficiency improvement" means an installation or modification that is designed to reduce energy consumption. The term includes, but is not limited to: Insulation; storm windows and doors; automatic energy control systems; energy efficiency audits; heating, ventilating, or air conditioning and distribution system modifications or replacements in buildings or central plants; caulking and weather stripping; energy recovery systems; geothermal heat pumps; and day lighting systems.

~~((++))~~ (11) "Green highway zone" means an area in the state designated by the department that is within reasonable proximity of state route number 5, state route number 90, and state route number 82.

~~((++))~~ (12) "Innovative energy technology" means, but is not limited to, the following: Smart grid or smart metering; biogas from landfills, wastewater treatment plants, anaerobic

digesters, or other processes; wave or tidal power; fuel cells; high efficiency cogeneration; and energy storage systems.

(13) "Peer review committee" means a board, appointed by the director, that includes bioenergy specialists, energy conservation specialists, scientists, and individuals with specific recognized expertise.

~~((+2))~~ (14) "Project" means the construction of facilities, including the purchase of equipment, to convert farm products or wastes into electricity or gaseous or liquid fuels or other coproducts associated with such conversion, or clean energy projects as identified by the clean energy initiative as created in section 2, chapter . . . (Substitute Senate Bill No. 5921), Laws of 2009. These specifically include fixed or mobile facilities to generate electricity or methane from the anaerobic digestion of organic matter, and fixed or mobile facilities for extracting oils from canola, rape, mustard, and other oilseeds. "Project" may also include the construction of facilities associated with such conversion for the distribution and storage of such feedstocks and fuels. The definition of project does not apply to projects as described in RCW 43.325.020(5).

(15) "Renewable energy improvements" means a fixture, product, system, device, or interacting group of devices that produces energy from renewable resources. The term includes, but is not limited to: Photovoltaic systems; solar thermal systems; small wind systems; biomass systems; and geothermal systems.

~~((+3))~~ (16) "Refueling project" means the construction of new alternative fuel refueling facilities, as well as upgrades and expansion of existing refueling facilities, that will enable these facilities to offer alternative fuels to the public.

~~((+4))~~ (17) "Research and development project" means research and development, by an institution of higher education as defined in subsection (1) of this section, relating to:

(a) Bioenergy sources including but not limited to biomass and associated gases; or

(b) The development of markets for bioenergy coproducts.

Sec. 3. RCW 43.325.020 and 2007 c 348 s 302 are each amended to read as follows:

(1) The energy freedom program is established within the department. The director may establish policies and procedures necessary for processing, reviewing, and approving applications made under this chapter.

(2) When reviewing applications submitted under this program, the director shall consult with those agencies and other public entities having expertise and knowledge to assess the technical and business feasibility of the project and probability of success. These agencies may include, but are not limited to, Washington State University, the University of Washington, the department of ecology, the department of natural resources, the department of agriculture, the department of general administration, local clean air authorities, ~~((and))~~ the Washington state conservation commission, and the clean energy initiative as created in section 2, chapter . . . (Substitute Senate Bill No. 5921), Laws of 2009.

(3) Except as provided in subsections (4) and (5) of this section, the director, in cooperation with the department of agriculture, may approve an application only if the director finds:

(a) The project will convert farm products, wastes, cellulose, or biogas directly into electricity or biofuel or other coproducts associated with such conversion;

(b) The project demonstrates technical feasibility and directly assists in moving a commercially viable project into the marketplace for use by Washington state citizens;

(c) The facility will produce long-term economic benefits to the state, a region of the state, or a particular community in the state;

(d) The project does not require continuing state support;

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(e) The assistance will result in new jobs, job retention, or higher incomes for citizens of the state;

(f) The state is provided an option under the assistance agreement to purchase a portion of the fuel or feedstock to be produced by the project, exercisable by the department of general administration;

(g) The project will increase energy independence or diversity for the state;

(h) The project will use feedstocks produced in the state, if feasible, except this criterion does not apply to the construction of facilities used to distribute and store fuels that are produced from farm products or wastes;

(i) Any product produced by the project will be suitable for its intended use, will meet accepted national or state standards, and will be stored and distributed in a safe and environmentally sound manner;

(j) The application provides for adequate reporting or disclosure of financial and employment data to the director, and permits the director to require an annual or other periodic audit of the project books; and

(k) For research and development projects, the application has been independently reviewed by a peer review committee as defined in RCW 43.325.010 and the findings delivered to the director.

(4) When reviewing an application for a refueling project, the coordinator may award a grant or a loan to an applicant if the director finds:

(a) The project will offer alternative fuels to the motoring public;

(b) The project does not require continued state support;

(c) The project is located within a green highway zone as defined in RCW 43.325.010;

(d) The project will contribute towards an efficient and adequately spaced alternative fuel refueling network along the green highways designated in RCW 47.17.020, 47.17.135, and 47.17.140; and

(e) The project will result in increased access to alternative fueling infrastructure for the motoring public along the green highways designated in RCW 47.17.020, 47.17.135, and 47.17.140.

(5) When reviewing an application for energy efficiency improvements, renewable energy improvements, or innovative energy technology, the director may award a grant or a loan to an applicant if the director finds:

(a) The project or program will result in increased access for the public, state and local governments, and businesses to energy efficiency improvements, renewable energy improvements, or innovative energy technologies;

(b) The project or program demonstrates technical feasibility and directly assists in moving a commercially viable project into the marketplace for use by Washington state citizens;

(c) The project or program does not require continued state support; or

(d) The federal government has provided funds with a limited time frame for use for energy independence and security, energy efficiency, renewable energy, innovative energy technologies, or conservation.

(6)(a) The director may approve a project application for assistance under subsection (3) of this section up to five million dollars. In no circumstances shall this assistance constitute more than fifty percent of the total project cost.

(b) The director may approve a refueling project application for a grant or a loan under subsection (4) of this section up to fifty thousand dollars. In no circumstances shall a grant or a loan award constitute more than fifty percent of the total project cost.

((6)) (7) The director shall enter into agreements with approved applicants to fix the terms and rates of the assistance to minimize the costs to the applicants, and to encourage

establishment of a viable bioenergy or biofuel industry, or a viable energy efficiency, renewable energy, or innovative energy technology industry. The agreement shall include provisions to protect the state's investment, including a requirement that a successful applicant enter into contracts with any partners that may be involved in the use of any assistance provided under this program, including services, facilities, infrastructure, or equipment. Contracts with any partners shall become part of the application record.

((7)) (8) The director may defer any payments for up to twenty-four months or until the project starts to receive revenue from operations, whichever is sooner.

Sec. 4. RCW 43.325.030 and 2007 c 348 s 205 are each amended to read as follows:

The ~~((director of the department))~~ office of the governor shall appoint a coordinator that is responsible for:

(1) Convening the clean energy initiative as created in section 2, chapter . . . (Substitute Senate Bill No. 5921), Laws of 2009;

(2) Managing, directing, inventorying, and coordinating state efforts to promote, develop, and encourage ((a)) biofuel((s)) and energy efficiency, renewable energy, and innovative energy technology markets in Washington;

((2)) (3) Developing, coordinating, and overseeing the implementation of a plan, or series of plans, for the production, transport, distribution, and delivery of energy efficiency, renewable energy, and innovative energy technology products and services as well as biofuels produced predominantly from recycled products or Washington feedstocks;

((3)) (4) Working with the departments of transportation and general administration, and other applicable state and local governmental entities and the private sector, to ensure the development of biofuel fueling stations for use by state and local governmental motor vehicle fleets, and to provide greater availability of public biofuel fueling stations for use by state and local governmental motor vehicle fleets;

((4)) (5) Coordinating with the Western Washington University alternative automobile program for opportunities to support new Washington state technology for conversion of fossil fuel fleets to biofuel, hybrid, or alternative fuel propulsion;

((5)) (6) Coordinating with the University of Washington's college of forest management and the Olympic natural resources center for the identification of barriers to using the state's forest resources for fuel production, including the economic and transportation barriers of physically bringing forest biomass to the market;

((6)) (7) Coordinating with the department of agriculture and Washington State University for the identification of other barriers for future biofuels development and development of strategies for furthering the penetration of the Washington state fossil fuel market with Washington produced biofuels, particularly among public entities.

Sec. 5. RCW 43.325.040 and 2007 c 348 s 305 are each amended to read as follows:

(1) The energy freedom account is created in the state treasury. All receipts from appropriations made to the account and any loan payments of principal and interest derived from loans made under this chapter must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for assistance for projects consistent with this chapter or otherwise authorized by the legislature.

(a) Repayments of principal and interest from loans made to projects defined in RCW 43.325.010(14) must be used only for financial assistance to further funding of projects defined under that section.

(b) Repayments of principal and interest from loans made to energy efficiency improvement, renewable energy improvement,

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and innovative energy technology projects as defined in RCW 43.325.010 must be used only for financial assistance to further funding of projects defined under that section.

(2) The green energy incentive account is created in the state treasury as a subaccount of the energy freedom account. All receipts from appropriations made to the green energy incentive account shall be deposited into the account, and may be spent only after appropriation. Expenditures from the account may be used only for:

(a) Refueling projects awarded under this chapter;

(b) Pilot projects for plug-in hybrids, including grants provided for the electrification program set forth in RCW 43.325.110; and

(c) Demonstration projects developed with state universities as defined in RCW 28B.10.016 and local governments that result in the design and building of a hydrogen vehicle fueling station.

(3) The nonstate energy account is created in the state treasury. All receipts from appropriations made to the nonstate energy account shall be deposited into the account and may be spent only after appropriation. Money provided by the federal government for energy independence and security, innovative energy technologies, energy efficiency, renewable energy, and conservation must be deposited into the nonstate energy account.

(a) To the energy efficiency assistance account created in section 110, chapter . . . (Engrossed Second Substitute Senate Bill No. 5649), Laws of 2009 there is appropriated from the nonstate energy account for the biennium ending June 30, 2011, a sum of thirty million dollars of the federal funds received by the state pursuant to the federal American recovery and reinvestment act of 2009 (P.L. 111-5), the federal energy independence and security act of 2007 (P.L. 110-140), the federal energy policy and conservation act (Title 42 U.S.C. Sec. 6321), and the energy efficient appliance rebate program authorized by the federal energy policy act of 2005 (P.L. 109-58), for the purpose of funding the energy efficiency assistance program as created in section 102, chapter . . . (Engrossed Second Substitute Senate Bill No. 5649), Laws of 2009.

(b) There is appropriated from the nonstate energy account to Washington State University the sum of fifteen million dollars for the fiscal year ending June 30, 2010, and fifteen million dollars for the fiscal year ending June 30, 2011.

(4) Any state agency receiving funding from the energy freedom account is prohibited from retaining greater than three percent of any funding provided from the energy freedom account for administrative overhead or other deductions not directly associated with conducting the research, projects, or other end products that the funding is designed to produce unless this provision is waived in writing by the director.

((4)) (5) Any university, institute, or other entity that is not a state agency receiving funding from the energy freedom account is prohibited from retaining greater than fifteen percent of any funding provided from the energy freedom account for administrative overhead or other deductions not directly associated with conducting the research, projects, or other end products that the funding is designed to produce.

((5)) (6) For the purposes of funding the clean energy leadership initiative, as created in section 2, chapter . . . (Substitute Senate Bill No. 5921), Laws of 2009 there is appropriated from the nonstate energy account to Washington State University the sum of five hundred thousand dollars for the fiscal year ending June 30, 2010.

(7) Subsections (2) through ((4)) (5) of this section do not apply to assistance awarded for projects under RCW 43.325.020(3).

Sec. 6. RCW 43.325.070 and 2007 c 348 s 303 are each amended to read as follows:

(1) If the total requested dollar amount of assistance awarded for projects under RCW 43.325.020(3) exceeds the amount available in the energy freedom account created in RCW 43.325.040, the applications must be prioritized based upon the following criteria:

(a) The extent to which the project will help reduce dependence on petroleum fuels and imported energy either directly or indirectly;

(b) The extent to which the project will reduce air and water pollution either directly or indirectly;

(c) The extent to which the project will establish a viable bioenergy ~~((or))~~ biofuel production capacity, energy efficiency, renewable energy, or innovative energy technology industry in Washington;

(d) The benefits to Washington's agricultural producers;

(e) The benefits to the health of Washington's forests;

(f) The beneficial uses of biogas; ~~((and))~~

(g) The number and quality of jobs and economic benefits created by the project; and

(h) Other criteria determined by the clean energy initiative.

(2) This section does not apply to grants or loans awarded for refueling projects under RCW 43.325.020 (4) and (6).

NEW SECTION. Sec. 7. Sections 2, 3, 5, and 6 of this act expire June 30, 2016.

NEW SECTION. Sec. 8. 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 "program;" strike the remainder of the title and insert "amending RCW 43.325.010, 43.325.020, 43.325.030, 43.325.040, and 43.325.070; creating a new section; making appropriations; providing an expiration date; and declaring an emergency."

The President declared the question before the Senate to be the motion by Senator Pridemore to not adopt the committee striking amendment by the Committee on Environment, Water & Energy to Engrossed Substitute House Bill No. 2289.

The motion by Senator Pridemore carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Pridemore moved that the following striking amendment by Senator Rockefeller be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends to modify the energy freedom program and account in order to receive federal funds and other sources of funding. Also, the legislature intends to expand the mission of the energy freedom program to accelerate energy efficiency improvements, renewable energy improvements, and deployment of innovative energy technologies. Additionally, the legislature intends to support, through the energy freedom program, research, demonstration, and commercialization of energy efficiency improvements, renewable energy improvements, and innovation energy technologies.

Sec. 2. RCW 43.325.010 and 2007 c 348 s 301 are each amended to read as follows:

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

(1) "Applicant" means the state and any political subdivision of the state, including port districts, counties, cities, towns, special purpose districts, and other municipal corporations or quasi-municipal corporations. "Applicant" may also include federally recognized tribes ~~((and))~~ state institutions of higher education with appropriate research capabilities, any organization described in section 501(c)(3) of the internal revenue code, and private entities that are eligible to receive federal funds.

(2) "Alternative fuel" means all products or energy sources used to propel motor vehicles, other than conventional gasoline,

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diesel, or reformulated gasoline. "Alternative fuel" includes, but is not limited to, cellulose, liquefied petroleum gas, liquefied natural gas, compressed natural gas, biofuels, biodiesel fuel, E85 motor fuel, fuels containing seventy percent or more by volume of alcohol fuel, fuels that are derived from biomass, hydrogen fuel, anhydrous ammonia fuel, nonhazardous motor fuel, or electricity, excluding onboard electric generation.

(3) "Assistance" includes loans, leases, product purchases, or other forms of financial or technical assistance.

(4) "Biofuel" includes, but is not limited to, biodiesel, ethanol, and ethanol blend fuels and renewable liquid natural gas or liquid compressed natural gas made from biogas.

(5) "Biogas" includes waste gases derived from landfills and wastewater treatment plants and dairy and farm wastes.

(6) "Cellulose" means lignocellulosic, hemicellulosic, or other cellulose matter that is available on a renewable or recurring basis, including dedicated energy crops and trees, wood and wood residues, plants, grasses, agricultural residues, fibers, animal wastes and other waste materials, and municipal solid waste.

(7) "Coordinator" means the person appointed by the director of the department of community, trade, and economic development.

(8) "Department" means the department of community, trade, and economic development.

(9) "Director" means the director of the department of community, trade, and economic development.

(10) "Energy efficiency improvement" means an installation or modification that is designed to reduce energy consumption. The term includes, but is not limited to: Insulation; storm windows and doors; automatic energy control systems; energy efficiency audits; heating, ventilating, or air conditioning and distribution system modifications or replacements in buildings or central plants; caulking and weather stripping; energy recovery systems; geothermal heat pumps; and day lighting systems.

(11) "Green highway zone" means an area in the state designated by the department that is within reasonable proximity of state route number 5, state route number 90, and state route number 82.

~~((+))~~ (12) "Innovative energy technology" means, but is not limited to, the following: Smart grid or smart metering; biogas from landfills, wastewater treatment plants, anaerobic digesters, or other processes; wave or tidal power; fuel cells; high efficiency cogeneration; and energy storage systems.

(13) "Peer review committee" means a board, appointed by the director, that includes bioenergy specialists, energy conservation specialists, scientists, and individuals with specific recognized expertise.

~~((+))~~ (14) "Project" ((means)) includes: (a) The construction of facilities, including the purchase of equipment, to convert farm products or wastes into electricity or gaseous or liquid fuels or other coproducts associated with such conversion; (b) clean energy projects identified by the clean energy leadership council, created in section 2, chapter . . . (Substitute Senate Bill No. 5921), Laws of 2009; and (c) energy efficiency improvements, renewable energy improvements, or innovative energy technologies. These specifically include fixed or mobile facilities to generate electricity or methane from the anaerobic digestion of organic matter, and fixed or mobile facilities for extracting oils from canola, rape, mustard, and other oilseeds. "Project" may also include the construction of facilities associated with such conversion for the distribution and storage of such feedstocks and fuels. The definition of project does not apply to projects as described in RCW 43.325.020(5).

(15) "Renewable energy improvements" means a fixture, product, system, device, or interacting group of devices that produces energy from renewable resources. The term includes, but is not limited to: Photovoltaic systems; solar thermal systems; small wind systems; biomass systems; and geothermal systems.

~~((+))~~ (16) "Refueling project" means the construction of new alternative fuel refueling facilities, as well as upgrades and

expansion of existing refueling facilities, that will enable these facilities to offer alternative fuels to the public.

~~((+))~~ (17) "Research and development project" means research and development, by an institution of higher education as defined in subsection (1) of this section, relating to:

(a) Bioenergy sources including but not limited to biomass and associated gases; or

(b) The development of markets for bioenergy coproducts.

Sec. 3. RCW 43.325.020 and 2007 c 348 s 302 are each amended to read as follows:

(1) The energy freedom program is established within the department. The director may establish policies and procedures necessary for processing, reviewing, and approving applications made under this chapter.

(2) When reviewing applications submitted under this program, the director shall consult with those agencies and other public entities having expertise and knowledge to assess the technical and business feasibility of the project and probability of success. These agencies may include, but are not limited to, Washington State University, the University of Washington, the department of ecology, the department of natural resources, the department of agriculture, the department of general administration, local clean air authorities, ~~((and))~~ the Washington state conservation commission, and the clean energy leadership council created in section 2, chapter . . . (Substitute Senate Bill No. 5921), Laws of 2009.

(3) Except as provided in subsections (4) and (5) of this section, the director, in cooperation with the department of agriculture, may approve an application only if the director finds:

(a) The project will convert farm products, wastes, cellulose, or biogas directly into electricity or biofuel or other coproducts associated with such conversion;

(b) The project demonstrates technical feasibility and directly assists in moving a commercially viable project into the marketplace for use by Washington state citizens;

(c) The facility will produce long-term economic benefits to the state, a region of the state, or a particular community in the state;

(d) The project does not require continuing state support;

(e) The assistance will result in new jobs, job retention, or higher incomes for citizens of the state;

(f) The state is provided an option under the assistance agreement to purchase a portion of the fuel or feedstock to be produced by the project, exercisable by the department of general administration;

(g) The project will increase energy independence or diversity for the state;

(h) The project will use feedstocks produced in the state, if feasible, except this criterion does not apply to the construction of facilities used to distribute and store fuels that are produced from farm products or wastes;

(i) Any product produced by the project will be suitable for its intended use, will meet accepted national or state standards, and will be stored and distributed in a safe and environmentally sound manner;

(j) The application provides for adequate reporting or disclosure of financial and employment data to the director, and permits the director to require an annual or other periodic audit of the project books; and

(k) For research and development projects, the application has been independently reviewed by a peer review committee as defined in RCW 43.325.010 and the findings delivered to the director.

(4) When reviewing an application for a refueling project, the coordinator may award a grant or a loan to an applicant if the director finds:

(a) The project will offer alternative fuels to the motoring public;

(b) The project does not require continued state support;

(c) The project is located within a green highway zone as defined in RCW 43.325.010;

(d) The project will contribute towards an efficient and adequately spaced alternative fuel refueling network along the

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green highways designated in RCW 47.17.020, 47.17.135, and 47.17.140; and

(e) The project will result in increased access to alternative fueling infrastructure for the motoring public along the green highways designated in RCW 47.17.020, 47.17.135, and 47.17.140.

(5) When reviewing an application for energy efficiency improvements, renewable energy improvements, or innovative energy technology, the director may award a grant or a loan to an applicant if the director finds:

(a) The project or program will result in increased access for the public, state and local governments, and businesses to energy efficiency improvements, renewable energy improvements, or innovative energy technologies;

(b) The project or program demonstrates technical feasibility and directly assists in moving a commercially viable project into the marketplace for use by Washington state citizens;

(c) The project or program does not require continued state support; or

(d) The federal government has provided funds with a limited time frame for use for energy independence and security, energy efficiency, renewable energy, innovative energy technologies, or conservation.

(6)(a) The director may approve a project application for assistance under subsection (3) of this section up to five million dollars. In no circumstances shall this assistance constitute more than fifty percent of the total project cost.

(b) The director may approve a refueling project application for a grant or a loan under subsection (4) of this section up to fifty thousand dollars. In no circumstances shall a grant or a loan award constitute more than fifty percent of the total project cost.

~~((6))~~ (7) The director shall enter into agreements with approved applicants to fix the terms and rates of the assistance to minimize the costs to the applicants, and to encourage establishment of a viable bioenergy or biofuel industry, or a viable energy efficiency, renewable energy, or innovative energy technology industry. The agreement shall include provisions to protect the state's investment, including a requirement that a successful applicant enter into contracts with any partners that may be involved in the use of any assistance provided under this program, including services, facilities, infrastructure, or equipment. Contracts with any partners shall become part of the application record.

~~((7))~~ (8) The director may defer any payments for up to twenty-four months or until the project starts to receive revenue from operations, whichever is sooner.

Sec. 4. RCW 43.325.030 and 2007 c 348 s 205 are each amended to read as follows:

The director of the department shall appoint a coordinator that is responsible for:

(1) Managing, directing, inventorying, and coordinating state efforts to promote, develop, and encourage ((a)) biofuel((s)) and energy efficiency, renewable energy, and innovative energy technology markets in Washington;

(2) Developing, coordinating, and overseeing the implementation of a plan, or series of plans, for the production, transport, distribution, and delivery of biofuels produced predominantly from recycled products or Washington feedstocks;

(3) Working with the departments of transportation and general administration, and other applicable state and local governmental entities and the private sector, to ensure the development of biofuel fueling stations for use by state and local governmental motor vehicle fleets, and to provide greater availability of public biofuel fueling stations for use by state and local governmental motor vehicle fleets;

(4) Coordinating with the Western Washington University alternative automobile program for opportunities to support new Washington state technology for conversion of fossil fuel fleets to biofuel, hybrid, or alternative fuel propulsion;

(5) Coordinating with the University of Washington's college of forest management and the Olympic natural resources center for the identification of barriers to using the state's forest resources for fuel production, including the economic and

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transportation barriers of physically bringing forest biomass to the market;

(6) Coordinating with the department of agriculture and Washington State University for the identification of other barriers for future biofuels development and development of strategies for furthering the penetration of the Washington state fossil fuel market with Washington produced biofuels, particularly among public entities.

Sec. 5. RCW 43.325.040 and 2007 c 348 s 305 are each amended to read as follows:

(1) The energy freedom account is created in the state treasury. All receipts from appropriations made to the account and any loan payments of principal and interest derived from loans made under ((this chapter)) the energy freedom account must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for financial assistance for further funding for projects consistent with this chapter or otherwise authorized by the legislature.

(2) The green energy incentive account is created in the state treasury as a subaccount of the energy freedom account. All receipts from appropriations made to the green energy incentive account shall be deposited into the account, and may be spent only after appropriation. Expenditures from the account may be used only for:

(a) Refueling projects awarded under this chapter;

(b) Pilot projects for plug-in hybrids, including grants provided for the electrification program set forth in RCW 43.325.110; and

(c) Demonstration projects developed with state universities as defined in RCW 28B.10.016 and local governments that result in the design and building of a hydrogen vehicle fueling station.

(3)(a) The energy recovery act account is created in the state treasury. State and federal funds may be deposited into the account and any loan payments of principal and interest derived from loans made from the energy recovery act account must be deposited into the account. Moneys in the account may be spent only after appropriation.

(b) Expenditures from the account may be used only for loans, loan guarantees, and grants that encourage the establishment of innovative and sustainable industries for renewable energy and energy efficiency technology, including but not limited to:

(i) Renewable energy projects or programs that require interim financing to complete project development and implementation;

(ii) Companies with innovative, near-commercial or commercial, clean energy technology; and

(iii) Energy efficiency technologies that have a viable repayment stream from reduced utility costs.

(c) The director shall establish policies and procedures for processing, reviewing, and approving applications for funding under this section. When developing these policies and procedures, the department must consider the clean energy leadership strategy developed under section 2, chapter . . . (Substitute Senate Bill No. 5921), Laws of 2009.

(d) The director shall enter into agreements with approved applicants to fix the term and rates of funding provided from this account.

(e) The policies and procedures of this subsection (3) do not apply to assistance awarded for projects under RCW 43.325.020(3).

(4) Any state agency receiving funding from the energy freedom account is prohibited from retaining greater than three percent of any funding provided from the energy freedom account for administrative overhead or other deductions not directly associated with conducting the research, projects, or other end products that the funding is designed to produce unless this provision is waived in writing by the director.

~~((4))~~ (5) Any university, institute, or other entity that is not a state agency receiving funding from the energy freedom account is prohibited from retaining greater than fifteen percent of any funding provided from the energy freedom account for administrative overhead or other deductions not directly

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associated with conducting the research, projects, or other end products that the funding is designed to produce.

~~((5))~~ (6) Subsections (2) ~~((through))~~, (4) and (5) of this section do not apply to assistance awarded for projects under RCW 43.325.020(3).

Sec. 6. RCW 43.325.070 and 2007 c 348 s 303 are each amended to read as follows:

(1) If the total requested dollar amount of assistance awarded for projects under RCW 43.325.020(3) exceeds the amount available in the energy freedom account created in RCW 43.325.040, the applications must be prioritized based upon the following criteria:

(a) The extent to which the project will help reduce dependence on petroleum fuels and imported energy either directly or indirectly;

(b) The extent to which the project will reduce air and water pollution either directly or indirectly;

(c) The extent to which the project will establish a viable bioenergy or biofuel production capacity, energy efficiency, renewable energy, or innovative energy technology industry in Washington;

(d) The benefits to Washington's agricultural producers;

(e) The benefits to the health of Washington's forests;

(f) The beneficial uses of biogas; ~~((and))~~

(g) The number and quality of jobs and economic benefits created by the project; and

(h) Other criteria as determined by the clean energy leadership council created in section 2, chapter . . . (Substitute Senate Bill No. 5921), Laws of 2009.

(2) This section does not apply to grants or loans awarded for refueling projects under RCW 43.325.020 (4) and (5).

Sec. 7. RCW 43.84.092 and 2008 c 106 s 3 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river

basin water supply development account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, The Evergreen State College capital projects account, the federal forest revolving account, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the high occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the real estate appraiser commission account, the regional mobility grant program account, the resource management cost account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection

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(4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 8. RCW 43.84.092 and 2008 c 128 s 19 and 2008 c 106 s 4 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative

account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the health services account, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the safety and education account, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State

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University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 9. Section 8 of this act takes effect July 1, 2009.

NEW SECTION. Sec. 10. (1) Sections 2, 3, 5, and 6 of this act expire June 30, 2016.

(2) Section 7 of this act expires July 1, 2009.

NEW SECTION. Sec. 11. 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."

Senator Pridemore spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Rockefeller to Engrossed Substitute House Bill No. 2289.

The motion by Senator Pridemore carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 43.325.010, 43.325.020, 43.325.030, 43.325.040, 43.325.070, and 43.84.092; reenacting and amending RCW 43.84.092; creating a new section; providing an effective date; providing expiration dates; and declaring an emergency."

MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute House Bill No. 2289 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2289 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2289 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Brandland

Excused: Senators Keiser, Pflug and Rockefeller

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2289 as amended by the Senate, having received the constitutional

majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1048, by Representatives Simpson, Hudgins, Nelson, Santos, Chase and Kenney

Repealing provisions addressing the sale, lease, or conveyance of municipal property in commercial areas to private parties for free public parking facilities in cities with populations over three hundred thousand.

The measure was read the second time.

MOTION

On motion of Senator McDermott, the rules were suspended, House Bill No. 1048 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McDermott spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Honeyford: "Would Senator McDermott yield to a question? Would this also include a get out of jail card free?"

Senator McDermott: "No. You can't pass go either, Senator."

The President declared the question before the Senate to be the final passage of House Bill No. 1048 which had been deferred earlier in the day.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1048 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Brandland

Excused: Senators Keiser, Pflug and Rockefeller

HOUSE BILL NO. 1048, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The Senate resumed consideration of Second Substitute House Bill No. 1484.

MOTION

Senator Hatfield moved that the following amendment by Senator Hatfield to the committee striking amendment be adopted.

On page 18, after line 3 of the amendment, insert the following:

"NEW SECTION. Sec. 5. (1) The legislature finds that the revenue generated from state forest lands is a vital component of the operating budget in many rural counties. The dependence on a natural resource-based economy is especially underscored in counties with lower population levels and large holdings of public land. The high cost of compliance with the federal

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endangered species act on state forest lands within these smaller counties is disproportionately burdensome when compared to their total county budgets.

(2) The intent of this act is to provide sustainable revenue to smaller counties that are heavily dependent on state forest land revenues while promoting long-term protection, conservation, and recovery of marbled murrelets and northern spotted owls. This act provides the necessary tools for the state to maintain long-term working forests by replacing state forest lands with endangered species-based harvest encumbrances with productive, working forest lands.

Sec. 6. RCW 79.22.060 and 2003 c 334 s 221 are each amended to read as follows:

(1) With the approval of the board, the department may directly transfer or dispose of state forest lands without public auction, if ~~((such))~~ the lands:

- ~~(a) Consist of ten contiguous acres or less~~((or))~~;~~
- ~~(b) Have a value of twenty-five thousand dollars or less; or~~
- ~~(c) Are located in a county with a population of twenty-five thousand or less and are encumbered with timber harvest deferrals, associated with wildlife species listed under the federal endangered species act, greater than thirty years in length. ~~((Such))~~~~

~~(2) Disposal under this section may only occur in the following circumstances:~~

- ~~(a) Transfers in lieu of condemnation; ~~((and))~~~~
- ~~(b) Transfers to resolve trespass and property ownership disputes; or~~
- ~~(c) In counties with a population of twenty-five thousand or less, transfers to public agencies.~~

~~((2)) (3) Real property to be transferred or disposed of under this section shall be transferred or disposed of only after appraisal and for at least fair market value, and only if ~~((such))~~ the transaction is in the best interest of the state or affected trust. Valuable materials attached to lands transferred to public agencies under subsection (2)(c) of this section must be appraised at the fair market value without consideration of management or regulatory encumbrances associated with wildlife species listed under the federal endangered species act.~~

~~((3)) (4) The proceeds from real property transferred or disposed of under this section shall be deposited into the park land trust revolving fund and be solely used to buy replacement land within the same county as the property transferred or disposed. In counties with a population of twenty-five thousand or less, the portion of the proceeds associated with valuable materials on the transferred land must be distributed as provided in RCW 79.64.110.~~

Sec. 7. RCW 79.64.110 and 2007 c 503 s 1 are each amended to read as follows:

Any moneys derived from the lease of state forest lands or from the sale of valuable materials, oils, gases, coal, minerals, or fossils from those lands, or the appraised value of these resources when transferred to a public agency under RCW 79.22.060, must be distributed as follows:

(1) State forest lands acquired through RCW 79.22.040 or by exchange for lands acquired through RCW 79.22.040:

(a) The expense incurred by the state for administration, reforestation, and protection, not to exceed twenty-five percent, which rate of percentage shall be determined by the board, must be returned to the forest development account in the state general fund.

(b) Any balance remaining must be paid to the county in which the land is located to be paid, distributed, and prorated, except as otherwise provided in this section, to the various funds in the same manner as general taxes are paid and distributed during the year of payment.

(c) Any balance remaining, paid to a county with a population of less than sixteen thousand, must first be applied to

the reduction of any indebtedness existing in the current expense fund of the county during the year of payment.

(d) With regard to moneys remaining under this subsection (1), within seven working days of receipt of these moneys, the department shall certify to the state treasurer the amounts to be distributed to the counties. The state treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date.

(2) State forest lands acquired through RCW 79.22.010 or by exchange for lands acquired through RCW 79.22.010, except as provided in RCW 79.64.120:

(a) Fifty percent shall be placed in the forest development account.

(b) Fifty percent shall be prorated and distributed to the state general fund, to be dedicated for the benefit of the public schools, and the county in which the land is located according to the relative proportions of tax levies of all taxing districts in the county. The portion to be distributed to the state general fund shall be based on the regular school levy rate under RCW 84.52.065 and the levy rate for any maintenance and operation special school levies. With regard to the portion to be distributed to the counties, the department shall certify to the state treasurer the amounts to be distributed within seven working days of receipt of the money. The state treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date. The money distributed to the county must be paid, distributed, and prorated to the various other funds in the same manner as general taxes are paid and distributed during the year of payment.

(3) A school district may transfer amounts deposited in its debt service fund pursuant to this section into its capital projects fund as authorized in RCW 28A.320.330.

Sec. 8. RCW 43.30.385 and 2004 c 103 s 1 are each amended to read as follows:

(1) The park land trust revolving fund is to be utilized by the department for the purpose of acquiring real property, including all reasonable costs associated with these acquisitions, as a replacement for the property transferred to the state parks and recreation commission, as directed by the legislature in order to maintain the land base of the affected trusts or under RCW 79.22.060 and to receive voluntary contributions for the purpose of operating and maintaining public use and recreation facilities, including trails, managed by the department. Proceeds from transfers of real property to the state parks and recreation commission or other proceeds identified from transfers of real property as directed by the legislature shall be deposited in this fund. Disbursement from the park land trust revolving fund to acquire replacement property and for operating and maintaining public use and recreation facilities shall be on the authorization of the department. The proceeds from real property transferred or disposed under RCW 79.22.060 must be solely used to purchase replacement forest land, that must be actively managed as a working forest, within the same county as the property transferred or disposed. In order to maintain an effective expenditure and revenue control, the park land trust revolving fund is subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

(2) The department is authorized to solicit and receive voluntary contributions for the purpose of operating and maintaining public use and recreation facilities, including trails, managed by the department. The department may seek voluntary contributions from individuals and organizations for this purpose. Voluntary contributions will be deposited into the park land trust revolving fund and used solely for the purpose of public use and recreation facilities operations and maintenance. Voluntary contributions are not considered a fee for use of these facilities.

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NEW SECTION. Sec. 9. (1) By October 31, 2010, the department of natural resources shall prepare a report to the appropriate committees of the legislature detailing the procedure and timeline, and estimating the costs, of full implementation of the intent of this act.

(2) The report required by this section must include a recommended process to transfer state forest lands encumbered by long-term endangered species-based harvest deferrals, associated with wildlife species listed under the federal endangered species act, through the trust land transfer program into a natural resource conservation area status. This element of the report must assume the following:

(a) Encumbered property would be transferred at a specified biennial rate designed to provide sustainable revenue to the impacted counties;

(b) The value of the land and timber would be bifurcated, with the timber value being distributed to the county as timber revenue, and the land value being utilized to purchase replacement working forest land within the affected county and placed in the appropriate trust designation; and

(c) The land and timber value of the parcels identified for transfer will be appraised at full market value, without consideration of the devaluing effect of harvest encumbrances associated with wildlife species listed under the federal endangered species act.

(3) This section expires June 30, 2011."

Senators Hatfield and Morton spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Hatfield on page 18, after line 3 to the committee striking amendment to Second Substitute House Bill No. 1484.

The motion by Senator Hatfield carried and the amendment to the committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator McCaslin, Senator Brandland was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation as amended to Second Substitute House Bill No. 1484.

The motion by Senator Jacobsen carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 1 of the title, after "space;" strike the remainder of the title and insert "and amending RCW 76.09.040, 84.33.140, 84.34.108, and 76.09.020."

On page 18, line 6 of the title amendment, after "84.34.108," strike "and 76.09.020" and insert "76.09.020, 79.22.060, 79.64.110, and 43.30.385; creating new sections; and providing an expiration date."

MOTION

On motion of Senator Jacobsen, the rules were suspended, Second Substitute House Bill No. 1484 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1484 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1484 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brandland, Pflug and Rockefeller

SECOND SUBSTITUTE HOUSE BILL NO. 1484 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

INTRODUCTION OF SPECIAL GUEST

The President introduced Mr. Bernd Busemann, Justice Minister of the state Lower Saxony and a delegation from Germany who were seated in the gallery.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1286, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Miloscia, Appleton, Armstrong, Hunt, Newhouse, White, Smith, Rolfes, Roberts, Nelson, Hinkle and Ormsby)

Prohibiting false and defamatory statements about candidates for public office.

The measure was read the second time.

MOTION

On motion of Senator McDermott, the rules were suspended, Substitute House Bill No. 1286 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McDermott spoke in favor of passage of the bill.

MOTION

On motion of Senator Hatfield, Senator Marr was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1286.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1286 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

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Voting nay: Senator Swecker

Excused: Senators Brandland, Marr, Pflug and Rockefeller

SUBSTITUTE HOUSE BILL NO. 1286, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1283, by House Committee on Environmental Health (originally sponsored by Representatives Rolfes, Campbell, Kretz, Upthegrove and Ormsby)

Modifying provisions regarding the operators of public water supply systems.

The measure was read the second time.

MOTION

Senator Hobbs moved that the following amendment by Senator Hobbs be adopted.

On page 6, after line 17, insert the following:

"NEW SECTION. Sec. 8. A new section is added to chapter 70.119A RCW to read as follows:

A group A water system serving less than one hundred connections that purchases water from a water system approved by the department shall measure chlorine residuals at the same time and location of collection for a routine and repeat coliform sample."

Correct the title.

WITHDRAWAL OF AMENDMENT

On motion of Senator Hobbs, the amendment by Senator Hobbs, on page 6, line after 17 to Substitute House Bill No. 1283 was withdrawn.

MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 1283 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1283.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1283 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brandland, Marr, Pflug and Rockefeller

SUBSTITUTE HOUSE BILL NO. 1283, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Jacobsen: "Thank you, when I was looking at Substitute House Bill No. 1286 about candidates for public office and honesty. Many years ago I was in the House and I went over and testified before a committee in the Senate. Senator Wojahn was presiding and Senator McCaslin was one of the members of the committee. I was waiting for my bill to come up. In the mean time, they had a bill about tell you the truth about, in your campaigns and they started to exchange war stories about how bad it'd been, what their candidate, their opponent had said about them. Senator McCaslin said his opponent had called him stupid, fat, ignorant and lazy and Senator McCaslin said to the committee members. 'Right away I knew I had a problem, I had a leak at the top of my campaign staff.'"

PERSONAL PRIVILEGE

Senator McCaslin: "Just to let you know my integrity. He's never been seen again and this is my twenty-ninth year."

SECOND READING

HOUSE BILL NO. 1238, by Representatives Appleton, Goodman and Rodne

Allowing the Washington center for court research and the office of public defense to access juvenile case records.

The measure was read the second time.

MOTION

Senator Regala moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.50.010 and 1998 c 269 s 4 are each amended to read as follows:

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of ~~((the))~~ the family and children's ombudsman, the department of social and health services and its contracting agencies, schools; persons or public or private agencies having children committed to their custody; and any placement oversight committee created under RCW 72.05.415;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case;

(d) "Social file" means the juvenile court file containing the records and reports of the probation counselor.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the

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security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. The court may also permit inspection of, or release of information from, records which have been sealed pursuant to RCW 13.50.050((++)) (12). The court shall release to the sentencing guidelines commission records needed for its research and data-gathering functions under RCW 9.94A.850 and other statutes. Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) Juvenile detention facilities shall release records to the sentencing guidelines commission under RCW 9.94A.850 upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

(10) Requirements in this chapter relating to the court's authority to compel disclosure shall not apply to the legislative children's oversight committee or the office of the family and children's ombudsman.

(11) The administrative office of the courts shall maintain an electronic research copy of all records in the judicial information system related to juveniles. For purposes of this chapter, "research copy" means an electronic replica of all records entered into the judicial information system related to juveniles including records destroyed or removed from the judicial information system under RCW 13.50.050 (17) and (18) and 13.50.100(3) and used for the purposes of legitimate research for educational, scientific, or public purposes.

(12) The court shall release to the Washington state office of public defense records needed to implement the agency's oversight, technical assistance, and other functions as required by RCW 2.70.020. Access to the records used as a basis for oversight, technical assistance, or other agency functions is

restricted to the Washington state office of public defense. The Washington state office of public defense shall maintain the confidentiality of all confidential information included in the records."

Senator Regala spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to House Bill No. 1238.

The motion by Senator Regala carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "defense;" strike the remainder of the title and insert "and amending RCW 13.50.010."

MOTION

On motion of Senator Regala, the rules were suspended, House Bill No. 1238 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala and Roach spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1238 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1238 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Honeyford

Excused: Senators Brandland, Marr, Pflug and Rockefeller

HOUSE BILL NO. 1238 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1527, by Representatives Kessler, Rolfes, Williams and Santos

Concerning medicaid payment rates for boarding homes.

The measure was read the second time.

MOTION

Senator Prentice moved that the following committee amendment by the Committee on Ways & Means be adopted.

On page 2, beginning on line 36, after "services," strike all material down to and including line 3 on page 3 and insert "the department shall comply with all public notice and hearing

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requirements of the administrative procedures act, chapter 34.05 RCW."

Senator Prentice spoke in favor of adoption of the committee amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Ways & Means to House Bill No. 1527.

The motion by Senator Prentice carried and the committee amendment was adopted by voice vote.

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 1527 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1527 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1527 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator McAuliffe

Excused: Senators Brandland, Marr, Pflug and Rockefeller

HOUSE BILL NO. 1527 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Ranker: "I'm going to try and do this. I'm already blowing it. Today is a very, very special day. It is daughter's very first birthday. Being a father is the most powerful and most amazing thing I've ever experienced and because I have my priorities straight I'll be leaving you shortly to go celebrate my daughter's first birthday. Thank you. Happy Birthday Elsa."

MOTION

At 2:33 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:00 p.m. by President Owen.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1332, by House Committee on Judiciary (originally sponsored by Representatives Goodman, Anderson, Springer, Clibborn, Eddy, Simpson, Rodne, Pedersen, Hunter and Maxwell)

Granting authority of a watershed management partnership to exercise powers of its forming governments.

The measure was read the second time.

MOTION

Senator Kauffman moved that the following amendment by Senators Kauffman and Kastama be adopted.

On page 2, on line 7, delete "and"

On page 2, on line 10 after "partnership" delete "." and insert the following;

"; and (e) The watershed management partnership agrees with the cities of Auburn, Bonney Lake, Buckley and Sumner:

(i) to appoint one ex officio representative to the board of directors of the partnership, to be selected by the such cities;

(ii) to allow such cities to purchase the total amount of excess capacity that the partnership currently buys from the City of Tacoma Water Division at the applicable rate for water provided but not to include systems development charges; and

(iii) that the partnership will replace, at its sole cost and expense, the water lost to any of said cities as a result of the partnership's operation of its Lake Tapps water operation."

Senator Kauffman spoke in favor of adoption of the amendment.

Senator Jarrett spoke against adoption of the amendment.

MOTION

On motion of Senator Stevens, Senator Becker was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kauffman and Kastama on page 2, line 7 to Substitute House Bill No. 1332.

The motion by Senator Kauffman failed and the amendment was not adopted by voice vote.

MOTION

Senator Kauffman moved that the following amendment by Senators Kauffman and Kastama be adopted.

On page 2, line 7, after "RCW;" strike "and"

On page 2, line 10, after "partnership" insert "; and

(e) Has entered into an interlocal agreement with all cities that are not members of the watershed management partnership and that have water or sewer service areas within one-half mile of Lake Tapps or water or sewer service areas within five miles upstream from Lake Tapps along the White river. The interlocal agreement shall, at a minimum, address:

(i) The impacts of the planned current and future operations of the watershed management partnership on the existing and future water supplies of those cities; and

(ii) The impacts of the planned current and future operations of the watershed management partnership on the infrastructure or municipal operations of those cities.

The watershed management partnership and the cities under this subsection (3) (e) shall employ good faith efforts to conclude negotiations of the interlocal agreement within two years from the effective date of this act. If the watershed management partnership and those cities do not execute an interlocal agreement within this time, the matter shall be resolved by binding arbitration as determined by a board of arbitrators consisting of a representative selected by the watershed management partnership, a representative selected by the cities, and a third representative to be appointed by the other two representatives. If no agreement is reached with regard to selecting the third representative, the third representative shall be appointed by a judge of the superior court of the county in which the majority of the cities are located. The determination by the board of arbitrators shall be binding on all parties. Each party shall pay the costs of their individual representatives on the board of arbitrators and they shall pay one-half of the cost of the third representative"

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On page 2, line 16, after "condemnation" insert ", in addition to the notice requirements of RCW 8.25.290"

Senators Kauffman and Carrell spoke in favor of adoption of the amendment.

Senator Jarrett spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kauffman and Kastama on page 2, line 7 to Substitute House Bill No. 1332.

The motion by Senator Kauffman failed and the amendment was not adopted by voice vote.

MOTION

Senator Kauffman moved that the following amendment by Senators Kauffman and Jarrett be adopted.

On page 2, line 13, after "RCW 8.25.290;" strike "and"

On page 2, line 16, after "condemnation" insert "; and"

(c) With any city that is not a member of the watershed management partnership and that has water or sewer service areas within one-half mile of Lake Tapps or water or sewer service areas within five miles upstream from Lake Tapps along the White river, enter into an interlocal agreement to allow eminent domain within that city prior to exercising authority under this section"

Senators Kauffman and Jarrett spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kauffman and Jarrett on page 2, line 13 to Substitute House Bill No. 1332.

The motion by Senator Kauffman carried and the amendment was adopted by voice vote.

MOTION

Senator Carrell moved that the following amendment by Senators Carrell, Fairley, Hargrove and Holmquist be adopted.

On page 2, line 16, after "condemnation" strike "." and insert "; and"

(c) Obtain authorization from the city, town, or county with jurisdiction over the subject property after the legislative authority of the city, town, or county has passed an ordinance requiring that property be taken for public use."

Senators Carrell, Roach and Hargrove spoke in favor of adoption of the amendment.

Senators Jarrett and Tom spoke against adoption of the amendment.

Senator Carrell demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

MOTION

On motion of Senator McCaslin, Senator Parlette was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senators Carrell, Fairley, Hargrove and Holmquist on page 2, line 16 to Substitute House Bill No. 1332.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senators Carrell, Fairley, Hargrove and Holmquist and the amendment was adopted by the following vote: Yeas, 24; Nays, 23; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell,

Eide, Fairley, Franklin, Fraser, Hargrove, Holmquist, Honeyford, Kastama, Kauffman, Keiser, McAuliffe, McCaslin, Morton, Parlette, Prentice, Roach, Shin, Stevens and Swecker

Voting nay: Senators Brown, Delvin, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Jarrett, Kilmer, King, Kline, Kohl-Welles, Marr, McDermott, Murray, Oemig, Pridemore, Ranker, Regala, Schoesler, Sheldon, Tom and Zarelli

Excused: Senators Becker, Pflug and Rockefeller

The President voting yea.

MOTION

On motion of Senator Tom, the rules were suspended, Substitute House Bill No. 1332 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Tom spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1332 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1332 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 1; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Fairley and Holmquist

Absent: Senator Ranker

Excused: Senators Becker, Pflug and Rockefeller

SUBSTITUTE HOUSE BILL NO. 1332 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Murray, Senators Fraser and Ranker were excused.

MOTION

On motion of Senator Delvin, Senator Brandland was excused.

MOTION

On motion of Senator Kauffman, Senator Keiser was excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1954, by House Committee on Human Services (originally sponsored by Representative Dickerson)

Sealing juvenile records under certain conditions.

The measure was read the second time.

MOTION

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On motion of Senator Regala, the rules were suspended, Engrossed Substitute House Bill No. 1954 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1954.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1954 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 1; Excused, 6.

Voting yea: Senators Becker, Benton, Berkey, Carrell, Delvin, Eide, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Brown

Excused: Senators Brandland, Fraser, Keiser, Pflug, Ranker and Rockefeller

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1954, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senators Brown, Kline and Pridemore were excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2125, by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Santos and Kenney)

Addressing community preservation and development authorities.

The measure was read the second time.

MOTION

Senator Kastama moved that the following striking amendment by Senators Kastama and Fairley be adopted:

Strike everything after the enacting clause and insert the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) Demonstrate ongoing accountability for its actions by:

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

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

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

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

Senator Kastama spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama and Fairley to Engrossed Substitute House Bill No. 2125.

The motion by Senator Kastama carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

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

MOTION

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On motion of Senator Kastama, the rules were suspended, Engrossed Substitute House Bill No. 2125 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kastama and Shin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2125 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2125 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 34; Nays, 8; Absent, 0; Excused, 7.

Voting yea: Senators Becker, Berkey, Carrell, Delvin, Eide, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Regala, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Holmquist, Honeyford, King, McCaslin, Morton, Roach and Stevens

Excused: Senators Brandland, Brown, Fraser, Kline, Pflug, Ranker and Rockefeller

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2125 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2208, by House Committee on Commerce & Labor (originally sponsored by Representatives Hope, Kristiansen, Newhouse and McCune)

Prohibiting new motorsports vehicle dealers from having to pay for returning or canceling orders of new motorsports vehicles under certain conditions. Revised for 1st Substitute: Prohibiting new motorsports vehicle dealers from having to pay a fee for canceling orders of new motorsports vehicles.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following amendment by Senator Kohl-Welles and Holmquist be adopted:

On page 8, after line 1, insert the following:

"NEW SECTION. Sec. 3. This act expires on August 1, 2009."

Senator Kohl-Welles spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kohl-Welles and Holmquist on page 8, after line 1 to Substitute House Bill No. 2208.

The motion by Senator Kohl-Welles carried and the amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "46.93.170", insert "providing an expiration date;"

MOTION

On motion of Senator Holmquist, the rules were suspended, Substitute House Bill No. 2208 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Holmquist and Marr spoke in favor of passage of the bill.

Senator Sheldon spoke on final passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2208 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2208 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 38; Nays, 5; Absent, 0; Excused, 6.

Voting yea: Senators Becker, Benton, Berkey, Carrell, Delvin, Eide, Fairley, Fraser, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Parlette, Prentice, Pridemore, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Franklin, Hargrove, Haugen, Oemig and Regala

Excused: Senators Brandland, Brown, Kline, Pflug, Ranker and Rockefeller

SUBSTITUTE HOUSE BILL NO. 2208 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 1385, by Representatives Haler, Van De Wege, Kessler, Pearson, Takko, Klippert, Blake, Morrell, Dammeier, Warnick, Smith and Johnson

Modifying provisions relating to sexual misconduct by school employees.

The measure was read the second time.

MOTION

Senator Kline moved that the following striking amendment by Senators Kline and Delvin be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.44.093 and 2005 c 262 s 2 are each amended to read as follows:

(1) A person is guilty of sexual misconduct with a minor in the first degree when: (a) The person has, or knowingly causes another person under the age of eighteen to have, sexual intercourse with another person who is at least sixteen years old but less than eighteen years old and not married to the perpetrator, if the perpetrator is at least sixty months older than the victim, is in a significant relationship to the victim, and abuses a supervisory position within that relationship in order to engage in or cause another person under the age of eighteen to engage in sexual intercourse with the victim; (b) the person is a school employee who has, or knowingly causes another person under the age of eighteen to have, sexual intercourse with ((~~a registered~~) an enrolled student of the school who is at least sixteen years old and not more than twenty-one years old and not married to the employee, if the employee is at least sixty months older than the student; or (c) the person is a foster parent who has, or knowingly causes another person under the age of eighteen to have, sexual intercourse with his or her foster child who is at least sixteen.

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(2) Sexual misconduct with a minor in the first degree is a class C felony.

(3) For the purposes of this section(⌚):

(a) "Enrolled student" means any student enrolled at or attending a program hosted or sponsored by a common school as defined in RCW 28A.150.020, or a student enrolled at or attending a program hosted or sponsored by a private school under chapter 28A.195 RCW, or any person who receives home-based instruction under chapter 28A.200 RCW.

(b) "School employee" means an employee of a common school defined in RCW 28A.150.020, or a grade kindergarten through twelve employee of a private school under chapter 28A.195 RCW, who is not enrolled as a student of the common school or private school.

Sec. 2. RCW 9A.44.096 and 2005 c 262 s 3 are each amended to read as follows:

(1) A person is guilty of sexual misconduct with a minor in the second degree when: (a) The person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another person who is at least sixteen years old but less than eighteen years old and not married to the perpetrator, if the perpetrator is at least sixty months older than the victim, is in a significant relationship to the victim, and abuses a supervisory position within that relationship in order to engage in or cause another person under the age of eighteen to engage in sexual contact with the victim; (b) the person is a school employee who has, or knowingly causes another person under the age of eighteen to have, sexual contact with ~~(a registered)~~ an enrolled student of the school who is at least sixteen years old and not more than twenty-one years old and not married to the employee, if the employee is at least sixty months older than the student; or (c) the person is a foster parent who has, or knowingly causes another person under the age of eighteen to have, sexual contact with his or her foster child who is at least sixteen.

(2) Sexual misconduct with a minor in the second degree is a gross misdemeanor.

(3) For the purposes of this section(⌚):

(a) "Enrolled student" means any student enrolled at or attending a program hosted or sponsored by a common school as defined in RCW 28A.150.020, or a student enrolled at or attending a program hosted or sponsored by a private school under chapter 28A.195 RCW, or any person who receives home-based instruction under chapter 28A.200 RCW.

(b) "School employee" means an employee of a common school defined in RCW 28A.150.020, or a grade kindergarten through twelve employee of a private school under chapter 28A.195 RCW, who is not enrolled as a student of the common school or private school."

Senator Kline spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kline and Delvin to Engrossed House Bill No. 1385.

The motion by Senator Kline carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "employees;" strike the remainder of the title and insert "and amending RCW 9A.44.093 and 9A.44.096."

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed House Bill No. 1385 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Delvin spoke in favor of passage of the bill.

The President declared the question before the Senate to be

the final passage of Engrossed House Bill No. 1385 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1385 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brandland, Brown, Pflug, Ranker and Rockefeller

ENGROSSED HOUSE BILL NO. 1385 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2146, by Representatives Ericks, Johnson, Eddy and Liias

Modifying contract requirements for water or sewer facilities.

The measure was read the second time.

MOTION

Senator Fairley moved that the following committee striking amendment by the Committee on Government Operations & Elections be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 35.91.020 and 2006 c 88 s 2 are each amended to read as follows:

(1) Except as provided under subsection (2) of this section, the governing body of any city, town, county, water-sewer district, or drainage district, hereinafter referred to as a "municipality" may contract with owners of real estate for the construction of storm, sanitary, or combination sewers, pumping stations, and disposal plants, water mains, hydrants, reservoirs, or appurtenances, hereinafter called "water or sewer facilities," within their boundaries or (except for counties) within ten miles from their corporate limits connecting with the public water or sewerage system to serve the area in which the real estate of such owners is located, and to provide for a period of not to exceed ~~((fifteen))~~ twenty years for the reimbursement of such owners and their assigns by any owner of real estate who did not contribute to the original cost of such water or sewer facilities and who subsequently tap onto or use the same of a fair pro rata share of the cost of the construction of said water or sewer facilities, including not only those directly connected thereto, but also users connected to laterals or branches connecting thereto, subject to such reasonable rules and regulations as the governing body of such municipality may provide or contract, and notwithstanding the provisions of any other law.

(2)(a) The contract may provide for an extension of the ~~((fifteen))~~ twenty-year reimbursement period for a time not to exceed the duration of any moratorium, phasing ordinance, concurrency designation, or other governmental action that prevents making applications for, or the approval of, any new development within the benefit area for a period of six months

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or more.

(b) Upon the extension of the reimbursement period pursuant to (a) of this subsection, the contract must specify the duration of the contract extension and must be filed and recorded with the county auditor. Property owners who are subject to the reimbursement obligations under subsection (1) of this section shall be notified by the contracting municipality of the extension filed under this subsection.

(3) Each contract shall include a provision requiring that every two years from the date the contract is executed a property owner entitled to reimbursement under this section provide the contracting municipality with information regarding the current contract name, address, and telephone number of the person, company, or partnership that originally entered into the contract. If the property owner fails to comply with the notification requirements of this subsection within sixty days of the specified time, then the contracting municipality may collect any reimbursement funds owed to the property owner under the contract. Such funds must be deposited in the capital fund of the municipality.

(4) To the extent it may require in the performance of such contract, such municipality may install said water or sewer facilities in and along the county streets in the area to be served as hereinabove provided, subject to such reasonable requirements as to the manner of occupancy of such streets as the county may by resolution provide. The provisions of such contract shall not be effective as to any owner of real estate not a party thereto unless such contract has been recorded in the office of the county auditor of the county in which the real estate of such owner is located prior to the time such owner taps into or connects to said water or sewer facilities."

Senator Fairley spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations & Elections to House Bill No. 2146.

The motion by Senator Fairley carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "facilities;" strike the remainder of the title and insert "and amending RCW 35.91.020."

MOTION

On motion of Senator Fairley, the rules were suspended, House Bill No. 2146 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fairley and Roach spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2146 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2146 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford,

Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brandland, Pflug, Ranker and Rockefeller

HOUSE BILL NO. 2146 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1103, by House Committee on Judiciary (originally sponsored by Representatives Moeller, Green, Morrell and Kenney)

Concerning the estates of vulnerable adults.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 11.84.010 and 1965 c 145 s 11.84.010 are each amended to read as follows:

As used in this chapter:

(1) "Abuser" means any person who participates, either as a principal or an accessory before the fact, in the willful and unlawful financial exploitation of a vulnerable adult.

(2) "Decedent" means:

(a) Any person whose life is taken by a slayer; or

(b) Any deceased person who, at any time during life in which he or she was a vulnerable adult, was the victim of financial exploitation by an abuser.

(3) "Financial exploitation" has the same meaning as provided in RCW 74.34.020, as enacted or hereafter amended.

(4) "Property" includes any real and personal property and any right or interest therein.

(5) "Slayer" (~~shall~~) means any person who participates, either as a principal or an accessory before the fact, in the willful and unlawful killing of any other person.

~~((2) "Decedent" shall mean any person whose life is so taken.~~

~~—(3) "Property" shall include any real and personal property and any right or interest therein;))~~ (6) "Vulnerable adult" has the same meaning as provided in RCW 74.34.020.

Sec. 2. RCW 11.84.020 and 1965 c 145 s 11.84.020 are each amended to read as follows:

No slayer or abuser shall in any way acquire any property or receive any benefit as the result of the death of the decedent, but such property shall pass as provided in the sections following.

Sec. 3. RCW 11.84.025 and 1998 c 292 s 502 are each amended to read as follows:

Proceeds payable to a slayer or abuser as the beneficiary of any benefits flowing from one of the retirement systems listed in RCW 41.50.030, by virtue of the decedent's membership in the department of retirement systems or by virtue of the death of decedent, shall be paid instead as designated in RCW 41.04.273.

Sec. 4. RCW 11.84.030 and 2008 c 6 s 624 are each amended to read as follows:

The slayer or abuser shall be deemed to have predeceased the decedent as to property which would have passed from the decedent or his or her estate to the slayer or abuser under the

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statutes of descent and distribution or have been acquired by statutory right as surviving spouse or surviving domestic partner or under any agreement made with the decedent under the provisions of RCW 26.16.120 as it now exists or is hereafter amended.

Sec. 5. RCW 11.84.040 and 1965 c 145 s 11.84.040 are each amended to read as follows:

Property which would have passed to or for the benefit of the slayer or abuser by devise or legacy from the decedent shall be distributed as if he or she had predeceased the decedent.

Sec. 6. RCW 11.84.050 and 1965 c 145 s 11.84.050 are each amended to read as follows:

(1) One-half of any property held by the slayer or abuser and the decedent as joint tenants, joint owners or joint obligees shall pass upon the death of the decedent to his or her estate, and the other half shall pass to his or her estate upon the death of the slayer or abuser, unless the slayer or abuser obtains a separation or severance of the property or a decree granting partition.

(2) As to property held jointly by three or more persons, including the slayer or abuser and the decedent, any enrichment which would have accrued to the slayer or abuser as a result of the death of the decedent shall pass to the estate of the decedent. If the slayer or abuser becomes the final survivor, one-half of the property shall immediately pass to the estate of the decedent and the other half shall pass to his or her estate upon the death of the slayer or abuser, unless the slayer or abuser obtains a separation or severance of the property or a decree granting partition.

(3) The provisions of this section shall not affect any enforceable agreement between the parties or any trust arising because a greater proportion of the property has been contributed by one party than by the other.

Sec. 7. RCW 11.84.070 and 1965 c 145 s 11.84.070 are each amended to read as follows:

Any interest in property whether vested or not, held by the slayer or abuser, subject to be divested, diminished in any way or extinguished, if the decedent survives him or her or lives to a certain age, shall be held by the slayer or abuser during his or her lifetime or until the decedent would have reached such age, but shall then pass as if the decedent had died immediately thereafter.

Sec. 8. RCW 11.84.080 and 1965 c 145 s 11.84.080 are each amended to read as follows:

As to any contingent remainder or executory or other future interest held by the slayer or abuser, subject to become vested in him or her or increased in any way for him or her upon the condition of the death of the decedent:

(1) If the interest would not have become vested or increased if he or she had predeceased the decedent, he or she shall be deemed to have so predeceased the decedent;

(2) In any case the interest shall not be vested or increased during the period of the life expectancy of the decedent.

Sec. 9. RCW 11.84.090 and 1965 c 145 s 11.84.090 are each amended to read as follows:

(1) Property appointed by the will of the decedent to or for the benefit of the slayer or abuser shall be distributed as if the slayer or abuser had predeceased the decedent.

(2) Property held either presently or in remainder by the slayer or abuser, subject to be divested by the exercise by the decedent of a power of revocation or a general power of appointment shall pass to the estate of the decedent, and property so held by the slayer or abuser, subject to be divested by the exercise by the decedent of a power of appointment to a particular person or persons or to a class of persons, shall pass to such person or persons, or in equal shares to the members of such class of persons, exclusive of the slayer or abuser.

Sec. 10. RCW 11.84.100 and 1965 c 145 s 11.84.100 are each amended to read as follows:

(1) Insurance proceeds payable to the slayer or abuser as the beneficiary or assignee of any policy or certificate of insurance

on the life of the decedent, or as the survivor of a joint life policy, shall be paid instead to the estate of the decedent, unless the policy or certificate designate some person other than the slayer or abuser or his or her estate as secondary beneficiary to him or her and in which case such proceeds shall be paid to such secondary beneficiary in accordance with the applicable terms of the policy.

(2) If the decedent is beneficiary or assignee of any policy or certificate of insurance on the life of the slayer or abuser, the proceeds shall be paid to the estate of the decedent upon the death of the slayer or abuser, unless the policy names some person other than the slayer or abuser or his or her estate as secondary beneficiary, or unless the slayer or abuser by naming a new beneficiary or assigning the policy performs an act which would have deprived the decedent of his or her interest in the policy if he or she had been living.

Sec. 11. RCW 11.84.110 and 1965 c 145 s 11.84.110 are each amended to read as follows:

Any insurance company making payment according to the terms of its policy or any bank or other person performing an obligation for the slayer or abuser as one of several joint obligees shall not be subjected to additional liability by the terms of this chapter if such payment or performance is made without written notice, at its home office or at an individual's home or business address, of the killing by a slayer or financial exploitation by an abuser.

Sec. 12. RCW 11.84.120 and 1965 c 145 s 11.84.120 are each amended to read as follows:

The provisions of this chapter shall not affect the rights of any person who, before the interests of the slayer or abuser have been adjudicated, purchases or has agreed to purchase, from the slayer or abuser for value and without notice property which the slayer or abuser would have acquired except for the terms of this chapter, but all proceeds received by the slayer or abuser from such sale shall be held by him or her in trust for the persons entitled to the property under the provisions of this chapter, and the slayer or abuser shall also be liable both for any portion of such proceeds which he or she may have dissipated and for any difference between the actual value of the property and the amount of such proceeds.

Sec. 13. RCW 11.84.130 and 1965 c 145 s 11.84.130 are each amended to read as follows:

~~((The))~~ Any record of ~~((his))~~ conviction ~~((of))~~ for having participated in the ~~((willful))~~ willful and unlawful killing of the decedent or for conduct constituting financial exploitation against the decedent, including but not limited to theft, forgery, fraud, identity theft, robbery, burglary, or extortion, shall be admissible in evidence against a claimant of property in any civil ~~((action))~~ proceeding arising under this chapter.

NEW SECTION. Sec. 14. A new section is added to chapter 11.84 RCW to read as follows:

(1) A final judgment of conviction for the willful and unlawful killing of the decedent is conclusive for purposes of determining whether a person is a slayer under this section.

(2) In the absence of a criminal conviction, a superior court finding by a preponderance of the evidence that a person participated in the willful and unlawful killing of the decedent is conclusive for purposes of determining whether a person is a slayer under this section.

NEW SECTION. Sec. 15. A new section is added to chapter 11.84 RCW to read as follows:

(1) A final judgment of conviction for conduct constituting financial exploitation against the decedent, including but not limited to theft, forgery, fraud, identity theft, robbery, burglary, or extortion, is conclusive for purposes of determining whether a person is an abuser under this section.

(2) In the absence of a criminal conviction, a superior court finding by clear, cogent, and convincing evidence that a person participated in conduct constituting financial exploitation

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against the decedent is conclusive for purposes of determining whether a person is an abuser under this section.

NEW SECTION. Sec. 16. A new section is added to chapter 11.84 RCW to read as follows:

(1) In determining whether a person is an abuser for purposes of this chapter, the court must find by clear, cogent, and convincing evidence that:

(a) The decedent was a vulnerable adult at the time the alleged financial exploitation took place; and

(b) The conduct constituting financial exploitation was willful action or willful inaction causing injury to the property of the vulnerable adult.

(2) A finding of abuse by the department of social and health services is not admissible for any purpose in any claim or proceeding under this chapter.

(3) Except as provided in subsection (2) of this section, evidence of financial exploitation is admissible if it is not inadmissible pursuant to the rules of evidence.

NEW SECTION. Sec. 17. A new section is added to chapter 11.84 RCW to read as follows:

Notwithstanding the provisions of this chapter:

(1) An abuser is entitled to acquire or receive an interest in property or any other benefit described in this chapter if the court determines by clear, cogent, and convincing evidence that the decedent:

(a) Knew of the financial exploitation; and

(b) Subsequently ratified his or her intent to transfer the property interest or benefit to that person.

(2) The court may consider the record of proceedings and in its discretion allow an abuser to acquire or receive an interest in property or any other benefit described in this chapter in any manner the court deems equitable. In determining what is equitable, the court may consider, among other things:

(a) The various elements of the decedent's dispositive scheme;

(b) The decedent's likely intent given the totality of the circumstances; and

(c) The degree of harm resulting from the abuser's financial exploitation of the decedent.

Sec. 18. RCW 26.16.120 and 2008 c 6 s 612 are each amended to read as follows:

Nothing contained in any of the provisions of this chapter or in any law of this state, shall prevent both spouses or both domestic partners from jointly entering into any agreement concerning the status or disposition of the whole or any portion of the community property, then owned by them or afterwards to be acquired, to take effect upon the death of either. But such agreement may be made at any time by both spouses or both domestic partners by the execution of an instrument in writing under their hands and seals, and to be witnessed, acknowledged and certified in the same manner as deeds to real estate are required to be, under the laws of the state, and the same may at any time thereafter be altered or amended in the same manner. Such agreement shall not derogate from the right of creditors; nor be construed to curtail the powers of the superior court to set aside or cancel such agreement for fraud or under some other recognized head of equity jurisdiction, at the suit of either party; nor prevent the application of laws governing the community property and inheritance rights of slayers or abusers under chapter 11.84 RCW.

Sec. 19. RCW 41.04.273 and 1998 c 292 s 501 are each amended to read as follows:

(1) For purposes of this section, the following definitions shall apply:

(a) ("~~Slayer~~" means a slayer as defined) "Abuser" has the same meaning as provided in RCW 11.84.010.

(b) "Decedent" means any person (~~(whose life is taken by a slayer, and)~~) who is entitled to benefits from the Washington state department of retirement systems by written designation or

by operation of law;

(i) Whose life is taken by a slayer; or

(ii) Who is deceased and who, at any time during life in which he or she was a vulnerable adult, was the victim of financial exploitation by an abuser, except as provided in section 17 of this act.

(c) "Slayer" means a slayer as defined in RCW 11.84.010.

(2) Property that would have passed to or for the benefit of a beneficiary under one of the retirement systems listed in RCW 41.50.030 shall not pass to that beneficiary if the beneficiary was a slayer or abuser of the decedent and the property shall be distributed as if the slayer or abuser had predeceased the decedent.

(3) A slayer or abuser is deemed to have predeceased the decedent as to property which, by designation or by operation of law, would have passed from the decedent to the slayer or abuser because of the decedent's entitlement to benefits under one of the retirement systems listed in RCW 41.50.030.

(4)(a) The department of retirement systems has no affirmative duty to determine whether a beneficiary is, or is alleged to be, a slayer or abuser. However, upon receipt of written notice that a beneficiary is a defendant in a civil lawsuit or probate proceeding that alleges the beneficiary is a slayer or abuser, or is charged with a crime that, if committed, means the beneficiary is a slayer or abuser, the department of retirement systems shall determine whether the beneficiary is a defendant in such a civil (~~suit~~) proceeding or has been formally charged in court with the crime, or both. If so, the department shall withhold payment of any benefits until:

(i) The case or charges, or both if both are pending, are dismissed;

(ii) The beneficiary is found not guilty in the criminal case or prevails in the civil (~~suit~~) proceeding, or both if both are pending; or

(iii) The beneficiary is convicted or is found to be a slayer or abuser in the civil (~~suit~~) proceeding.

(b) If the case or charges, or both if both are pending, are dismissed or if a beneficiary is found not guilty or prevails in the civil (~~suit~~) proceeding, or both if both are pending, the department shall pay the beneficiary the benefits the beneficiary is entitled to receive. If the beneficiary is convicted or found to be a slayer or abuser in a civil (~~suit~~) proceeding, the department shall distribute the benefits according to subsection (2) of this section.

(5) (~~The slayer's~~) Any record of conviction for having participated in the willful and unlawful killing of the decedent or for conduct constituting financial exploitation against the decedent, including but not limited to theft, forgery, fraud, identity theft, robbery, burglary, or extortion, shall be admissible in evidence against a claimant of property in any civil action arising under this section.

(6) In the absence of a criminal conviction, a superior court may determine:

(a) By a preponderance of the evidence whether a person participated in the willful and unlawful killing of the decedent;

(b) By clear, cogent, and convincing evidence whether a person participated in conduct constituting financial exploitation against the decedent, as provided in chapter 11.84 RCW.

(7) This section shall not subject the department of retirement systems to liability for payment made to a slayer or abuser or alleged slayer or abuser, prior to the department's receipt of written notice that the slayer or abuser has been convicted of, or the alleged slayer or abuser has been formally criminally or civilly charged in court with, the death or financial exploitation of the decedent. If the conviction or civil judgment of a slayer or abuser is reversed on appeal, the department of retirement systems shall not be liable for payment made prior to the receipt of written notice of the reversal to a beneficiary other than the person whose conviction or civil judgment is reversed.

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Sec. 20. RCW 11.96A.030 and 2008 c 6 s 927 are each amended to read as follows:

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

(1) "Matter" includes any issue, question, or dispute involving:

(a) The determination of any class of creditors, devisees, legatees, heirs, next of kin, or other persons interested in an estate, trust, nonprobate asset, or with respect to any other asset or property interest passing at death;

(b) The direction of a personal representative or trustee to do or to abstain from doing any act in a fiduciary capacity;

(c) The determination of any question arising in the administration of an estate or trust, or with respect to any nonprobate asset, or with respect to any other asset or property interest passing at death, that may include, without limitation, questions relating to: (i) The construction of wills, trusts, community property agreements, and other writings; (ii) a change of personal representative or trustee; (iii) a change of the situs of a trust; (iv) an accounting from a personal representative or trustee; or (v) the determination of fees for a personal representative or trustee;

(d) The grant to a personal representative or trustee of any necessary or desirable power not otherwise granted in the governing instrument or given by law;

(e) An action or proceeding under chapter 11.84 RCW;

(f) The amendment, reformation, or conformation of a will or a trust instrument to comply with statutes and regulations of the United States internal revenue service in order to achieve qualification for deductions, elections, and other tax requirements, including the qualification of any gift thereunder for the benefit of a surviving spouse who is not a citizen of the United States for the estate tax marital deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a qualified domestic trust under section 2056A of the internal revenue code, the qualification of any gift thereunder as a qualified conservation easement as permitted by federal law, or the qualification of any gift for the charitable estate tax deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a charitable remainder trust; and

~~((f))~~ (g) With respect to any nonprobate asset, or with respect to any other asset or property interest passing at death, including joint tenancy property, property subject to a community property agreement, or assets subject to a pay on death or transfer on death designation:

(i) The ascertaining of any class of creditors or others for purposes of chapter 11.18 or 11.42 RCW;

(ii) The ordering of a qualified person, the notice agent, or resident agent, as those terms are defined in chapter 11.42 RCW, or any combination of them, to do or abstain from doing any particular act with respect to a nonprobate asset;

(iii) The ordering of a custodian of any of the decedent's records relating to a nonprobate asset to do or abstain from doing any particular act with respect to those records;

(iv) The determination of any question arising in the administration under chapter 11.18 or 11.42 RCW of a nonprobate asset;

(v) The determination of any questions relating to the abatement, rights of creditors, or other matter relating to the administration, settlement, or final disposition of a nonprobate asset under this title;

(vi) The resolution of any matter referencing this chapter, including a determination of any questions relating to the ownership or distribution of an individual retirement account on the death of the spouse of the account holder as contemplated by RCW 6.15.020(6);

(vii) The resolution of any other matter that could affect the nonprobate asset.

(2) "Notice agent" has the meanings given in RCW 11.42.010.

(3) "Nonprobate assets" has the meaning given in RCW 11.02.005.

(4) "Party" or "parties" means each of the following persons who has an interest in the subject of the particular proceeding and whose name and address are known to, or are reasonably ascertainable by, the petitioner:

(a) The trustor if living;

(b) The trustee;

(c) The personal representative;

(d) An heir;

(e) A beneficiary, including devisees, legatees, and trust beneficiaries;

(f) The surviving spouse or surviving domestic partner of a decedent with respect to his or her interest in the decedent's property;

(g) A guardian ad litem;

(h) A creditor;

(i) Any other person who has an interest in the subject of the particular proceeding;

(j) The attorney general if required under RCW 11.110.120;

(k) Any duly appointed and acting legal representative of a party such as a guardian, special representative, or attorney-in-fact;

(l) Where applicable, the virtual representative of any person described in this subsection the giving of notice to whom would meet notice requirements as provided in RCW 11.96A.120;

(m) Any notice agent, resident agent, or a qualified person, as those terms are defined in chapter 11.42 RCW; and

(n) The owner or the personal representative of the estate of the deceased owner of the nonprobate asset that is the subject of the particular proceeding, if the subject of the particular proceeding relates to the beneficiary's liability to a decedent's estate or creditors under RCW 11.18.200.

(5) "Persons interested in the estate or trust" means the trustor, if living, all persons beneficially interested in the estate or trust, persons holding powers over the trust or estate assets, the attorney general in the case of any charitable trust where the attorney general would be a necessary party to judicial proceedings concerning the trust, and any personal representative or trustee of the estate or trust.

(6) "Principal place of administration of the trust" means the trustee's usual place of business where the day-to-day records pertaining to the trust are kept, or the trustee's residence if the trustee has no such place of business.

(7) The "situs" of a trust means the place where the principal place of administration of the trust is located, unless otherwise provided in the instrument creating the trust.

(8) "Trustee" means any acting and qualified trustee of the trust.

(9) "Representative" and other similar terms refer to a person who virtually represents another under RCW 11.96A.120.

(10) "Citation" or "cite" and other similar terms, when required of a person interested in the estate or trust or a party to a petition, means to give notice as required under RCW 11.96A.100. "Citation" or "cite" and other similar terms, when required of the court, means to order, as authorized under RCW 11.96A.020 and 11.96A.060, and as authorized by law.

NEW SECTION. **Sec. 21.** A new section is added to chapter 11.84 RCW to read as follows:

The provisions of this act are supplemental to, and do not derogate from, any other statutory or common law proceedings, theories, or remedies including, but not limited to, the common law allocation of the burden of proof or production among the parties."

Senator Kline spoke in favor of adoption of the committee striking amendment.

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The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Substitute House Bill No. 1103.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "adults;" strike the remainder of the title and insert "amending RCW 11.84.010, 11.84.020, 11.84.025, 11.84.030, 11.84.040, 11.84.050, 11.84.070, 11.84.080, 11.84.090, 11.84.100, 11.84.110, 11.84.120, 11.84.130, 26.16.120, 41.04.273, and 11.96A.030; and adding new sections to chapter 11.84 RCW."

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1103 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1103 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1103 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brandland, Pflug, Ranker and Rockefeller

SUBSTITUTE HOUSE BILL NO. 1103 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 2279, by Representatives Hurst, Hope, Dunshee, Kelley and Roach

Addressing the offense of assault of a child in the first degree by requiring the review of the sentencing of offenders and modifying the conditions of release.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed House Bill No. 2279 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2279.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2279 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 3; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McCaslin, McDermott, Morton, Murray, Parlette, Prentice, Pridemore, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Kastama, McAuliffe and Oemig

Excused: Senators Brandland, Pflug, Ranker and Rockefeller

ENGROSSED HOUSE BILL NO. 2279, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1148, by Representatives Williams, Rodne, Simpson, Upthegrove, Haigh, Nelson, Rolfes, Sullivan, Hunt, Lias, Chase, Moeller, Goodman, Ormsby, Hurst, Kenney, Kirby, Eddy, Conway, Pedersen, Dunshee, Dickerson, Hasegawa, Sells, Appleton, Campbell and Herrera

Protecting animals from perpetrators of domestic violence.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that considerable research shows a strong correlation between animal abuse, child abuse, and domestic violence. The legislature intends that perpetrators of domestic violence not be allowed to further terrorize and manipulate their victims, or the children of their victims, by using the threat of violence toward pets.

Sec. 2. RCW 26.50.060 and 2000 c 119 s 15 are each amended to read as follows:

(1) Upon notice and after hearing, the court may provide relief as follows:

(a) Restrain the respondent from committing acts of domestic violence;

(b) Exclude the respondent from the dwelling that the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;

(c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(e) Order the respondent to participate in a domestic violence perpetrator treatment program approved under RCW 26.50.150;

(f) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;

(g) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including

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reasonable attorneys' fees;

(h) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household;

(i) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;

(j) Consider the provisions of RCW 9.41.800;

(k) Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included. Personal effects may include pets. The court may order that a petitioner be granted the exclusive custody or control of any pet owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child residing with either the petitioner or respondent and may prohibit the respondent from interfering with the petitioner's efforts to remove the pet. The court may also prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the pet is regularly found; and

(l) Order use of a vehicle.

(2) If a protection order restrains the respondent from contacting the respondent's minor children the restraint shall be for a fixed period not to exceed one year. This limitation is not applicable to orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW. With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09 or 26.26 RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123. If the court permits service by publication or mail, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as

provided in subsection (1)(~~(f)~~) (g) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service, service by publication, or service by mail and whether the court has approved service by publication or mail of an order issued under this section.

(7) If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial.

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

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

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

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

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

(iv) A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, respondent, or a minor child residing with either the petitioner or the respondent; or

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

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

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

(3) A violation of an order issued under this chapter, chapter 7.90, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, shall

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also constitute contempt of court, and is subject to the penalties prescribed by law.

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

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

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

Senator Kline spoke in favor of adoption of the committee striking amendment.

MOTION

Senator Zarelli moved to lay upon the table all the amendments to the committee striking amendment.

The President declared the question before the Senate to be the motion by Senator Zarelli to lay upon the table all the amendments to the committee striking amendment.

The motion by Senator Zarelli carried by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to House Bill No. 1148.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "violence;" strike the remainder of the title and insert "amending RCW 26.50.060 and 26.50.110; and creating a new section."

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1148 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Marr spoke in favor of passage of the bill.

Senator Schoesler spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1148 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1148 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 5; Absent, 1; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Regala, Roach, Sheldon, Shin, Tom and Zarelli

Voting nay: Senators Honeyford, Morton, Schoesler, Stevens and Swecker

Absent: Senator Brown

Excused: Senators Brandland, Pflug, Ranker and Rockefeller

HOUSE BILL NO. 1148 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 4:40 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 5:00 p.m. by President Owen.

MOTION

At 5:01 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Saturday, April 18, 2009.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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1385	Other Action.	29		Remarks by Senator Jacobsen.	12
	Second Reading.	28		Remarks by Senator Morton.	12
	Third Reading Final Passage.	29			
1484-S2	Other Action.	22			
	Second Reading.	7, 12, 20			
	Third Reading Final Passage.	22			
1527	Other Action.	25			
	Second Reading.	24			
	Third Reading Final Passage.	25			
1919-S	Other Action.	6			
	Second Reading.	5			
	Third Reading Final Passage.	6			