

NINETY NINTH DAY

NOON SESSION

Senate Chamber, Olympia
Monday, April 17, 2017

The Senate was called to order at 2:02 p.m. by the President of the Senate, Lt. Governor Habib presiding. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard consisting of Pages Miss Lovine Anderson and Mr. Grant Bransteller, presented the Colors. Page Miss Adriana Cruz led the Senate in the Pledge of Allegiance. Reverend Dr. Martha Greene of Westminster Presbyterian Church, Olympia offered the prayer.

MOTION

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

MOTION

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

MESSAGES FROM THE HOUSE

April 14, 2017

MR. PRESIDENT:
The Speaker has signed:

- SENATE BILL NO. 5039,
- SUBSTITUTE SENATE BILL NO. 5069,
- SUBSTITUTE SENATE BILL NO. 5077,
- ENGROSSED SENATE BILL NO. 5128,
- SUBSTITUTE SENATE BILL NO. 5133,
- SUBSTITUTE SENATE BILL NO. 5196,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5293,
- SENATE BILL NO. 5331,
- SECOND SUBSTITUTE SENATE BILL NO. 5347,
- SUBSTITUTE SENATE BILL NO. 5366,
- SENATE BILL NO. 5488,
- SUBSTITUTE SENATE BILL NO. 5514,
- SUBSTITUTE SENATE BILL NO. 5537,
- SECOND SUBSTITUTE SENATE BILL NO. 5546,
- SENATE BILL NO. 5662,
- SENATE BILL NO. 5736,
- SUBSTITUTE SENATE BILL NO. 5835,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 14, 2017

MR. PRESIDENT:
The Speaker has signed:

- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1153,
- ENGROSSED HOUSE BILL NO. 1201,
- SUBSTITUTE HOUSE BILL NO. 1234,
- SUBSTITUTE HOUSE BILL NO. 1258,
- HOUSE BILL NO. 1262,
- HOUSE BILL NO. 1274,

- HOUSE BILL NO. 1281,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1296,
- ENGROSSED HOUSE BILL NO. 1322,
- HOUSE BILL NO. 1352,
- HOUSE BILL NO. 1395,
- SUBSTITUTE HOUSE BILL NO. 1417,
- SUBSTITUTE HOUSE BILL NO. 1462,
- HOUSE BILL NO. 1475,
- SUBSTITUTE HOUSE BILL NO. 1490,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1493,
- ENGROSSED HOUSE BILL NO. 1507,
- SUBSTITUTE HOUSE BILL NO. 1521,
- SUBSTITUTE HOUSE BILL NO. 1526,
- HOUSE BILL NO. 1530,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1538,
- HOUSE BILL NO. 1578,
- HOUSE BILL NO. 1623,
- SUBSTITUTE HOUSE BILL NO. 1671,
- HOUSE BILL NO. 1676,
- SUBSTITUTE HOUSE BILL NO. 1683,
- HOUSE BILL NO. 1709,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1713,
- SUBSTITUTE HOUSE BILL NO. 1717,
- HOUSE BILL NO. 1721,
- SUBSTITUTE HOUSE BILL NO. 1738,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1739,
- SUBSTITUTE HOUSE BILL NO. 1741,
- SUBSTITUTE HOUSE BILL NO. 1747,
- HOUSE BILL NO. 1757,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1802,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1808,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1809,
- SUBSTITUTE HOUSE BILL NO. 1815,
- SUBSTITUTE HOUSE BILL NO. 1816,
- HOUSE BILL NO. 1829,
- HOUSE BILL NO. 1931,
- HOUSE BILL NO. 1959,
- SUBSTITUTE HOUSE BILL NO. 2037,
- HOUSE BILL NO. 2038,
- HOUSE BILL NO. 2064,
- SUBSTITUTE HOUSE BILL NO. 2138,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

On motion of Senator Fain, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5925 by Senators Keiser and Honeyford
AN ACT Relating to liquor licenses; and amending RCW 66.24.655, 66.24.650, and 66.24.363.

Referred to Committee on Commerce, Labor & Sports.

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

EHB 1958 by Representatives Harmsworth, Young, Rodne and Stanford

AN ACT Relating to regional transit authority property taxes imposed on less than a whole parcel; amending RCW 81.104.175; creating a new section; and declaring an emergency.

Referred to Committee on Transportation.

EHB 2201 by Representatives Pellicciotti, Slatter, Reeves, Clibborn, Lovick, Ormsby, Pollet, Kilduff, Kloba, Orwall, Sells, Stanford, Wylie and Senn

AN ACT Relating to the collection of a motor vehicle excise tax approved by voters of a regional transit authority in 2016 by creating a market value adjustment program to provide a credit based on the difference between the vehicle valuation schedule used by the authority to determine the tax amount under current law and the vehicle valuation schedule in RCW 82.44.035 in a manner that limits the delay of the voter approved 2016 plan; adding a new section to chapter 82.44 RCW; adding a new section to chapter 81.112 RCW; and declaring an emergency.

Referred to Committee on Transportation.

MOTION

On motion of Senator Fain, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Engrossed House Bill No. 1958 and Engrossed House Bill No. 2201 which were held at the desk.

MOTION

On motion of Senator Fain, the Senate advanced to the eighth order of business.

MOTION

On motion of Senator Fain, Senate Rule 20 was suspended for the remainder of the day to allow consideration of additional floor resolutions.

EDITOR'S NOTE: Senate Rule 20 limits consideration of floor resolutions not essential to the operation of the Senate to one per day during regular daily sessions.

MOTION

Senator Fortunato moved adoption of the following resolution:

SENATE RESOLUTION
8633

By Senators Fortunato, Braun, Rossi, Bailey, Pearson, Padden, Zeiger, Wilson, Short, Miloscia, Fain, Baumgartner, Ericksen, Rivers, Honeyford, Walsh, and Conway

WHEREAS, Today, we honor the Fraternal Order of Eagles, an organization that has promoted peace, prosperity, gladness, and hope since its founding in 1898; and

WHEREAS, It brings us great pride to know this organization was founded in Washington state by a group of theater directors in Seattle, and throughout the organization's history its had seven

different American presidents hold membership, including Theodore Roosevelt, John F. Kennedy, and Ronald Reagan; and

WHEREAS, The Fraternal Order of Eagles has gone from the original six founding members to boasting nearly 800,000 members and more than 1,500 locations across the United States and Canada; and

WHEREAS, Fraternity members and locations have consistently upheld the Fraternity motto of "liberty, truth, justice, and equality" by using its organization and influence to promote well-being in its members' communities and spearheading movements to aid those who are struggling; and

WHEREAS, The Fraternal Order of Eagles has had a monumental impact on social legislation, its notable achievements include the institution of Mother's Day, ending age-based discrimination with its Jobs After 40 program, being a driving force behind the implementation of Social Security, and being an avid and influential proponent for worker's compensation; and

WHEREAS, The Fraternal Order of Eagles has committed millions of dollars to various causes concerned with social welfare, including donating over one million dollars to Saint Jude's Children's Research Hospital, and 25 million dollars to the University of Iowa to fund the Fraternal Order of Eagles Diabetes Research Center; and

WHEREAS, The Fraternal Order of Eagles has shown passionate investment in its members' communities, distributing thousands of plaques and monoliths bearing the Ten Commandments to public parks, courthouses, and city halls in promotion of a moral foundation for our society;

NOW, THEREFORE, BE IT RESOLVED, That after 119 years of service to people and communities across the country, it is with great respect that the Washington State Senate honor the Fraternal Order of Eagles and its members; and recognize their numerous and admirable achievements, passion and drive to help those in need, and unflinching principles of "liberty, truth, justice, and equality."

Senator Fortunato spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8633.

The motion by Senator Fortunato carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Fraternal Order of Eagles who were seated in the gallery.

MOTION

Senator Rossi moved adoption of the following resolution:

SENATE RESOLUTION
8654

By Senator Rossi

WHEREAS, Washington is our nation's second largest producer of premium wine; and

WHEREAS, Today, the Washington wine industry has achieved international fame for its outstanding wine products, with Washington wine being shipped to all 50 states and to more than 40 countries across the world; and

WHEREAS, Washington wines now contribute more than 4.8 billion dollars annually to our state's economy and support over 25,000 jobs in every corner of our state; and

WHEREAS, Washington is now home to over 350 growers of wine grapes and over 900 wineries, which span nearly 50,000 acres of choice vineyard land planted with vinifera grapes in fourteen officially designated American Viticultural Areas: Ancient Lakes, Columbia Gorge, Columbia Valley, Horse Heaven Hills, Lake Chelan, Lewis-Clark Valley, Naches Heights, Puget Sound, Rattlesnake Hills, Red Mountain, Snipes Mountain, Yakima Valley, Wahluke Slope, and Walla Walla Valley; and

WHEREAS, Ste. Michelle Wine Estates traces its roots to the repeal of Prohibition and was a pioneer of vinifera grape production in Washington; and

WHEREAS, The golden anniversary of the first Ste. Michelle wines from vinifera grapes grown in eastern Washington will be celebrated this year; and

WHEREAS, In 1974, Ste. Michelle brought global recognition to the Washington wine industry, when its 1972 Riesling placed first in a blind tasting held by the Los Angeles Times; and

WHEREAS, In 1976, Ste. Michelle opened its iconic French-style winery Chateau, anchoring its home of Woodinville as a premium wine destination; and

WHEREAS, In 1978, the Chateau Ste. Michelle estate and grounds were added to the National Register of Historic Places; and

WHEREAS, Chateau Ste. Michelle opens its amphitheater as a beautiful concert venue for the enjoyment of its visitors in the summertime; and

WHEREAS, Chateau Ste. Michelle now attracts more than 300,000 visitors each year; and

WHEREAS, Chateau Ste. Michelle has been honored as Winery of the Year by Wine & Spirits magazine a record twenty-two times, more than any other winery in our country; and

WHEREAS, Chateau Ste. Michelle has a long history of giving back to the industry and community by using the net proceeds from its popular Summer Concert Series to help fund its charitable-giving program, which supports some 400 nonprofit organizations annually, and has provided more than 3 million dollars for scholarships for high-achieving, low-income students at Washington universities; and

WHEREAS, Chateau Ste. Michelle has been instrumental in the development of a state-of-the-art research and teaching institution for our state's wine industry, leading to the establishment of the Ste. Michelle Wine Estates Wine Science Center at the Washington State University campus in the Tri-Cities;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize the extraordinary achievements of Chateau Ste. Michelle and the economic benefits and the luxuries it provides for the people of the state of Washington; and

BE IT FURTHER RESOLVED, That the Washington State Senate encourage all the citizens of Washington to visit and enjoy the excellent events hosted by Chateau Ste. Michelle; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to Chateau Ste. Michelle.

Senators Rossi, Saldaña and Brown spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8654.

The motion by Senator Rossi carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mr. Eric Lent, Vice President and General Counsel for Chateau Ste Michelle Winery, who was seated in the gallery.

PERSONAL PRIVILEGE

Senator Rossi: "These (bottles of wine) are from Chateau Ste Michelle and they wanted to make sure that you actually would remember them and what their contributions are to the state of Washington. And you are probably saying to yourself, 'How come Senator Rossi hasn't done more resolutions?' That is probably what you are saying to yourself right now. But, thank you Mr. President."

REPLY BY THE PRESIDENT

President Habib: "Thank you Senator Rossi and thank you to Chateau Ste Michelle, and thank you to the attorneys who I am sure have vetted these fine gifts for us."

MOTION

On motion of Senator Fain, the Senate reverted to the seventh order of business.

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hunt moved that TRACY GUERIN, Gubernatorial Appointment No. 9190, be confirmed as Director of the Department of Retirement Systems - Agency Head.

Senators Hunt, Conway, Schoesler and Bailey spoke in favor of passage of the motion.

APPOINTMENT OF TRACY GUERIN

The President declared the question before the Senate to be the confirmation of TRACY GUERIN, Gubernatorial Appointment No. 9190, as Director of the Department of Retirement Systems - Agency Head.

The Secretary called the roll on the confirmation of TRACY GUERIN, Gubernatorial Appointment No. 9190, as Director of the Department of Retirement Systems - Agency Head and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

TRACY GUERIN, Gubernatorial Appointment No. 9190, having received the constitutional majority was declared confirmed as Director of the Department of Retirement Systems - Agency Head.

MOTION

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

On motion of Senator Fain, the Senate reverted to the fourth order of business.

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1153,
- ENGROSSED HOUSE BILL NO. 1201,
- SUBSTITUTE HOUSE BILL NO. 1234,
- SUBSTITUTE HOUSE BILL NO. 1258,
- HOUSE BILL NO. 1262,
- HOUSE BILL NO. 1274,
- HOUSE BILL NO. 1281,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1296,
- ENGROSSED HOUSE BILL NO. 1322,
- HOUSE BILL NO. 1352,
- HOUSE BILL NO. 1395,
- SUBSTITUTE HOUSE BILL NO. 1417,
- SUBSTITUTE HOUSE BILL NO. 1462,
- HOUSE BILL NO. 1475,
- SUBSTITUTE HOUSE BILL NO. 1490,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1493,
- ENGROSSED HOUSE BILL NO. 1507,
- SUBSTITUTE HOUSE BILL NO. 1521,
- SUBSTITUTE HOUSE BILL NO. 1526,
- HOUSE BILL NO. 1530,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1538,
- HOUSE BILL NO. 1578,
- HOUSE BILL NO. 1623,
- SUBSTITUTE HOUSE BILL NO. 1671,
- HOUSE BILL NO. 1676,
- SUBSTITUTE HOUSE BILL NO. 1683,
- HOUSE BILL NO. 1709,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1713,
- SUBSTITUTE HOUSE BILL NO. 1717,
- HOUSE BILL NO. 1721,
- SUBSTITUTE HOUSE BILL NO. 1738,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1739,
- SUBSTITUTE HOUSE BILL NO. 1741,
- SUBSTITUTE HOUSE BILL NO. 1747,
- HOUSE BILL NO. 1757,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1802,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1808,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1809,
- SUBSTITUTE HOUSE BILL NO. 1815,
- SUBSTITUTE HOUSE BILL NO. 1816,
- HOUSE BILL NO. 1829,
- HOUSE BILL NO. 1931,
- HOUSE BILL NO. 1959,
- SUBSTITUTE HOUSE BILL NO. 2037,
- HOUSE BILL NO. 2038,
- HOUSE BILL NO. 2064,
- SUBSTITUTE HOUSE BILL NO. 2138.

MESSAGE FROM THE HOUSE

April 10, 2017

MR. PRESIDENT:
The House passed SUBSTITUTE SENATE BILL NO. 5779 with the following amendment(s): 5779-S AMH APP H2608.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1112. Health transformation in Washington state requires a multifaceted approach to implement sustainable solutions for the integration of behavioral and physical health. Effective integration requires a holistic approach and cannot be limited to one strategy or model. Bidirectional integration of primary care and behavioral health is a foundational strategy to reduce health disparities and provide better care coordination for patients regardless of where they choose to receive care.

An important component to health care integration supported both by research and experience in Washington is primary care behavioral health, a model in which behavioral health providers, sometimes called behavioral health consultants, are fully integrated in primary care. The primary care behavioral health model originated more than two decades ago, has become standard practice nationally in patient centered medical homes, and has been endorsed as a viable integration strategy by Washington's Dr. Robert J. Bree Collaborative.

Primary care settings are a gateway for many individuals with behavioral health and primary care needs. An estimated one in four primary care patients have an identifiable behavioral health need and as many as seventy percent of primary care visits are impacted by a psychosocial component. A behavioral health consultant engages primary care patients and their caregivers on the same day as a medical visit, often in the same exam room. This warm hand-off approach fosters coordinated whole-person care, increases access to behavioral health services, and reduces stigma and cultural barriers in a cost-effective manner. Patients are provided evidence-based brief interventions and skills training, with more severe needs being effectively engaged, assessed, and referred to appropriate specialized care.

While the benefits of primary care behavioral health are not restricted to children, the primary care behavioral health model also provides a unique opportunity to engage children who have a strong relationship with primary care, identify problems early, and assure healthy development. Investment in primary care behavioral health creates opportunities for prevention and early detection that pay dividends throughout the life cycle.

The legislature also recognizes that for individuals with more complex behavioral health disorders, there are tremendous barriers to accessing primary care. Whole-person care in behavioral health is an evidence-based model for integrating primary care into behavioral health settings where these patients already receive care. Health disparities among people with behavioral health disorders have been well-documented for decades. People with serious mental illness or substance use disorders continue to experience multiple chronic health conditions and dramatically reduced life expectancy while also constituting one of the highest-cost and highest-risk populations. Two-thirds of premature deaths are due to preventable or treatable medical conditions such as cardiovascular, pulmonary, and infectious diseases, and forty-four percent of all cigarettes consumed nationally are smoked by people with serious mental illness.

The whole-person care in behavioral health model allows behavioral health providers to take responsibility for managing the full array of physical health needs, providing routine basic health screening, and ensuring integrated primary care by actively coordinating with or providing on-site primary care services.

Providers in Washington need guidance on how to effectively implement bidirectional integration models in a manner that is also financially sustainable. Payment methodologies must be

scrutinized to remove nonessential restrictions and limitations that restrict the scope of practice of behavioral health professionals, impede same-day billing for behavioral health and primary care services, abet billing errors, and stymie innovation that supports wellness and health integration.

NEW SECTION. Sec. 1113. A new section is added to chapter 74.09 RCW to read as follows:

(1) By August 1, 2017, the authority must complete a review of payment codes available to health plans and providers related to primary care and behavioral health. The review must include adjustments to payment rules if needed to facilitate bidirectional integration. The review must involve stakeholders and include consideration of the following principles to the extent allowed by federal law:

(a) Payment rules must allow professionals to operate within the full scope of their practice;

(b) Payment rules should allow medically necessary behavioral health services for covered patients to be provided in any setting;

(c) Payment rules should allow medically necessary primary care services for covered patients to be provided in any setting;

(d) Payment rules and provider communications related to payment should facilitate integration of physical and behavioral health services through multifaceted models, including primary care behavioral health, whole-person care in behavioral health, collaborative care, and other models;

(e) Payment rules should be designed liberally to encourage innovation and ease future transitions to more integrated models of payment and more integrated models of care;

(f) Payment rules should allow health and behavior codes to be reimbursed for all patients in primary care settings as provided by any licensed behavioral health professional operating within their scope of practice, including but not limited to psychiatrists, psychologists, psychiatric advanced registered nurse professionals, physician assistants working with a supervising psychiatrist, psychiatric nurses, mental health counselors, social workers, chemical dependency professionals, chemical dependency professional trainees, marriage and family therapists, and mental health counselor associates under the supervision of a licensed clinician;

(g) Payment rules should allow health and behavior codes to be reimbursed for all patients in behavioral health settings as provided by any licensed health care provider within the provider's scope of practice;

(h) Payment rules which limit same-day billing for providers using the same provider number, require prior authorization for low-level or routine behavioral health care, or prohibit payment when the patient is not present should be implemented only when consistent with national coding conventions and consonant with accepted best practices in the field.

(2) Concurrent with the review described in subsection (1) of this section, the authority must create matrices listing the following codes available for provider payment through medical assistance programs: All behavioral health-related codes; and all physical health-related codes available for payment when provided in licensed behavioral health agencies. The authority must clearly explain applicable payment rules in order to increase awareness among providers, standardize billing practices, and reduce common and avoidable billing errors. The authority must disseminate this information in a manner calculated to maximally reach all relevant plans and providers. The authority must update the provider billing guide to maintain consistency of information.

(3) The authority must inform the governor and relevant committees of the legislature by letter of the steps taken pursuant to this section and results achieved once the work has been completed.

NEW SECTION. Sec. 1114. A new section is added to chapter 74.09 RCW to read as follows:

(1) By August 1, 2017, the authority must complete a review of payment codes available to health plans and providers related to primary care and behavioral health. The review must include adjustments to payment rules if needed to facilitate bidirectional integration. The review must involve stakeholders and include consideration of the following principles to the extent allowed by federal law:

(a) Payment rules must allow professionals to operate within the full scope of their practice;

(b) Payment rules should allow medically necessary behavioral health services for covered patients to be provided in any setting;

(c) Payment rules should allow medically necessary primary care services for covered patients to be provided in any setting;

(d) Payment rules and provider communications related to payment should facilitate integration of physical and behavioral health services through multifaceted models, including primary care behavioral health, whole-person care in behavioral health, collaborative care, and other models;

(e) Payment rules should be designed liberally to encourage innovation and ease future transitions to more integrated models of payment and more integrated models of care;

(f) Payment rules should allow health and behavior codes to be reimbursed for all patients in primary care settings as provided by any licensed behavioral health professional operating within their scope of practice, including but not limited to psychiatrists, psychologists, psychiatric advanced registered nurse professionals, physician assistants working with a supervising psychiatrist, psychiatric nurses, mental health counselors, social workers, substance use disorder professionals, substance use disorder professional trainees, marriage and family therapists, and mental health counselor associates under the supervision of a licensed clinician;

(g) Payment rules should allow health and behavior codes to be reimbursed for all patients in behavioral health settings as provided by any licensed health care provider within the provider's scope of practice;

(h) Payment rules which limit same-day billing for providers using the same provider number, require prior authorization for low-level or routine behavioral health care, or prohibit payment when the patient is not present should be implemented only when consistent with national coding conventions and consonant with accepted best practices in the field.

(2) Concurrent with the review described in subsection (1) of this section, the authority must create matrices listing the following codes available for provider payment through medical assistance programs: All behavioral health-related codes; and all physical health-related codes available for payment when provided in licensed behavioral health agencies. The authority must clearly explain applicable payment rules in order to increase awareness among providers, standardize billing practices, and reduce common and avoidable billing errors. The authority must disseminate this information in a manner calculated to maximally reach all relevant plans and providers. The authority must update the provider billing guide to maintain consistency of information.

(3) The authority must inform the governor and relevant committees of the legislature by letter of the steps taken pursuant to this section and results achieved once the work has been completed.

NEW SECTION. Sec. 1115. A new section is added to chapter 74.09 RCW to read as follows:

(1) For children who are eligible for medical assistance and who have been identified as requiring mental health treatment, the authority must oversee the coordination of resources and services through (a) the managed health care system as defined in RCW

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

74.09.325 and (b) tribal organizations providing health care services. The authority must ensure the child receives treatment and appropriate care based on their assessed needs, regardless of whether the referral occurred through primary care, school-based services, or another practitioner.

(2) The authority must require each managed health care system as defined in RCW 74.09.325 and each behavioral health organization to develop and maintain adequate capacity to facilitate child mental health treatment services in the community or transfers to a behavioral health organization, depending on the level of required care. Managed health care systems and behavioral health organizations must:

- (a) Follow up with individuals to ensure an appointment has been secured;
- (b) Coordinate with and report back to primary care provider offices on individual treatment plans and medication management, in accordance with patient confidentiality laws;
- (c) Provide information to health plan members and primary care providers about the behavioral health resource line available twenty-four hours a day, seven days a week; and
- (d) Maintain an accurate list of providers contracted to provide mental health services to children and youth. The list must contain current information regarding the providers' availability to provide services. The current list must be made available to health plan members and primary care providers.

(3) This section expires June 30, 2020.

Sec. 1116. RCW 74.09.010 and 2013 2nd sp.s. c 10 s 8 are each amended to read as follows:

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

(1) "Authority" means the Washington state health care authority.

(2) "Bidirectional integration" means integrating behavioral health services into primary care settings and integrating primary care services into behavioral health settings.

(3) "Children's health program" means the health care services program provided to children under eighteen years of age and in households with incomes at or below the federal poverty level as annually defined by the federal department of health and human services as adjusted for family size, and who are not otherwise eligible for medical assistance or the limited casualty program for the medically needy.

~~((3))~~ (4) "Chronic care management" means the health care management within a health home of persons identified with, or at high risk for, one or more chronic conditions. Effective chronic care management:

- (a) Actively assists patients to acquire self-care skills to improve functioning and health outcomes, and slow the progression of disease or disability;
- (b) Employs evidence-based clinical practices;
- (c) Coordinates care across health care settings and providers, including tracking referrals;
- (d) Provides ready access to behavioral health services that are, to the extent possible, integrated with primary care; and
- (e) Uses appropriate community resources to support individual patients and families in managing chronic conditions.

~~((4))~~ (5) "Chronic condition" means a prolonged condition and includes, but is not limited to:

- (a) A mental health condition;
- (b) A substance use disorder;
- (c) Asthma;
- (d) Diabetes;
- (e) Heart disease; and
- (f) Being overweight, as evidenced by a body mass index over twenty-five.

~~((5))~~ (6) "County" means the board of county commissioners, county council, county executive, or tribal jurisdiction, or its designee.

~~((6))~~ (7) "Department" means the department of social and health services.

~~((7))~~ (8) "Department of health" means the Washington state department of health created pursuant to RCW 43.70.020.

~~((8))~~ (9) "Director" means the director of the Washington state health care authority.

~~((9))~~ (10) "Full benefit dual eligible beneficiary" means an individual who, for any month: Has coverage for the month under a medicare prescription drug plan or medicare advantage plan with part D coverage; and is determined eligible by the state for full medicaid benefits for the month under any eligibility category in the state's medicaid plan or a section 1115 demonstration waiver that provides pharmacy benefits.

~~((10))~~ (11) "Health home" or "primary care health home" means coordinated health care provided by a licensed primary care provider coordinating all medical care services, and a multidisciplinary health care team comprised of clinical and nonclinical staff. The term "coordinating all medical care services" shall not be construed to require prior authorization by a primary care provider in order for a patient to receive treatment for covered services by an optometrist licensed under chapter 18.53 RCW. Primary care health home services shall include those services defined as health home services in 42 U.S.C. Sec. 1396w-4 and, in addition, may include, but are not limited to:

- (a) Comprehensive care management including, but not limited to, chronic care treatment and management;
- (b) Extended hours of service;
- (c) Multiple ways for patients to communicate with the team, including electronically and by phone;
- (d) Education of patients on self-care, prevention, and health promotion, including the use of patient decision aids;
- (e) Coordinating and assuring smooth transitions and follow-up from inpatient to other settings;
- (f) Individual and family support including authorized representatives;
- (g) The use of information technology to link services, track tests, generate patient registries, and provide clinical data; and
- (h) Ongoing performance reporting and quality improvement.

~~((11))~~ (12) "Internal management" means the administration of medical assistance, medical care services, the children's health program, and the limited casualty program.

~~((12))~~ (13) "Limited casualty program" means the medical care program provided to medically needy persons as defined under Title XIX of the federal social security act, and to medically indigent persons who are without income or resources sufficient to secure necessary medical services.

~~((13))~~ (14) "Medical assistance" means the federal aid medical care program provided to categorically needy persons as defined under Title XIX of the federal social security act.

~~((14))~~ (15) "Medical care services" means the limited scope of care financed by state funds and provided to persons who are not eligible for medicaid under RCW 74.09.510 and who are eligible for the aged, blind, or disabled assistance program authorized in RCW 74.62.030 or the essential needs and housing support program pursuant to RCW 74.04.805.

~~((15))~~ (16) "Multidisciplinary health care team" means an interdisciplinary team of health professionals which may include, but is not limited to, medical specialists, nurses, pharmacists, nutritionists, dieticians, social workers, behavioral and mental health providers including substance use disorder prevention and treatment providers, doctors of chiropractic, physical therapists, licensed complementary and alternative medicine practitioners,

home care and other long-term care providers, and physicians' assistants.

~~((16))~~ (17) "Nursing home" means nursing home as defined in RCW 18.51.010.

~~((17))~~ (18) "Poverty" means the federal poverty level determined annually by the United States department of health and human services, or successor agency.

~~((18))~~ (19) "Primary care behavioral health" means a health care integration model in which behavioral health care is colocated, collaborative, and integrated within a primary care setting.

(20) "Primary care provider" means a general practice physician, family practitioner, internist, pediatrician, ~~((osteopath))~~ osteopathic physician, naturopath, physician assistant, osteopathic physician assistant, and advanced registered nurse practitioner licensed under Title 18 RCW.

~~((19))~~ (21) "Secretary" means the secretary of social and health services.

(22) "Whole-person care in behavioral health" means a health care integration model in which primary care services are integrated into a behavioral health setting either through colocation or community-based care management.

Sec. 1117. RCW 74.09.495 and 2016 c 96 s 3 are each amended to read as follows:

To better assure and understand issues related to network adequacy and access to services, the authority and the department shall report to the appropriate committees of the legislature by December 1, 2017, and annually thereafter, on the status of access to behavioral health services for children birth through age seventeen using data collected pursuant to RCW 70.320.050.

(1) At a minimum, the report must include the following components broken down by age, gender, and race and ethnicity:

~~((4))~~ (a) The percentage of discharges for patients ages six through seventeen who had a visit to the emergency room with a primary diagnosis of mental health or alcohol or other drug dependence during the measuring year and who had a follow-up visit with any provider with a corresponding primary diagnosis of mental health or alcohol or other drug dependence within thirty days of discharge;

~~((2))~~ (b) The percentage of health plan members with an identified mental health need who received mental health services during the reporting period; and

~~((3))~~ (c) The percentage of children served by behavioral health organizations, including the types of services provided.

(2) The report must also include the number of children's mental health providers available in the previous year, the languages spoken by those providers, and the overall percentage of children's mental health providers who were actively accepting new patients.

NEW SECTION. Sec. 1118. A new section is added to chapter 74.09 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, in order to increase the availability of behavioral health services and incentivize adoption of the primary care behavioral health model, the authority must establish a methodology and rate which provides increased reimbursement to providers for behavioral health services provided to patients in primary care settings.

Sec. 1119. RCW 70.320.020 and 2014 c 225 s 107 are each amended to read as follows:

(1) The authority and the department shall base contract performance measures developed under RCW 70.320.030 on the following outcomes when contracting with service contracting entities: Improvements in client health status and wellness; increases in client participation in meaningful activities; reductions in client involvement with criminal justice systems; reductions in avoidable costs in hospitals, emergency rooms,

crisis services, and jails and prisons; increases in stable housing in the community; improvements in client satisfaction with quality of life; and reductions in population-level health disparities.

(2) The performance measures must demonstrate the manner in which the following principles are achieved within each of the outcomes under subsection (1) of this section:

(a) Maximization of the use of evidence-based practices will be given priority over the use of research-based and promising practices, and research-based practices will be given priority over the use of promising practices. The agencies will develop strategies to identify programs that are effective with ethnically diverse clients and to consult with tribal governments, experts within ethnically diverse communities and community organizations that serve diverse communities;

(b) The maximization of the client's independence, recovery, and employment;

(c) The maximization of the client's participation in treatment decisions; and

(d) The collaboration between consumer-based support programs in providing services to the client.

(3) In developing performance measures under RCW 70.320.030, the authority and the department shall consider expected outcomes relevant to the general populations that each agency serves. The authority and the department may adapt the outcomes to account for the unique needs and characteristics of discrete subcategories of populations receiving services, including ethnically diverse communities.

(4) The authority and the department shall coordinate the establishment of the expected outcomes and the performance measures between each agency as well as each program to identify expected outcomes and performance measures that are common to the clients enrolled in multiple programs and to eliminate conflicting standards among the agencies and programs.

(5)(a) The authority and the department shall establish timelines and mechanisms for service contracting entities to report data related to performance measures and outcomes, including phased implementation of public reporting of outcome and performance measures in a form that allows for comparison of performance measures and levels of improvement between geographic regions of Washington.

(b) The authority and the department may not release any public reports of client outcomes unless the data ~~((have has))~~ has been deidentified and aggregated in such a way that the identity of individual clients cannot be determined through directly identifiable data or the combination of multiple data elements.

(6) The authority and department must establish a performance measure to be integrated into the statewide common measure set which tracks effective integration practices of behavioral health services in primary care settings.

NEW SECTION. Sec. 1120. RCW 18.205.040 (Use of title) and 2014 c 225 s 108, 2008 c 135 s 17, & 1998 c 243 s 4 are each repealed.

NEW SECTION. Sec. 1121. Section 2 of this act takes effect only if Engrossed Substitute House Bill No. 1340 (including any later amendments or substitutes) is not signed into law by the governor by the effective date of this section.

NEW SECTION. Sec. 1122. Section 3 of this act takes effect only if Engrossed Substitute House Bill No. 1340 (including any later amendments or substitutes) is signed into law by the governor by the effective date of this section."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Brown moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5779.

Senator Brown spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Brown that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5779.

The motion by Senator Brown carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5779 by voice vote.

MOTION

On motion of Senator Saldaña, Senator Nelson was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5779, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5779, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Erickson, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Excused: Senator Nelson

SUBSTITUTE SENATE BILL NO. 5779, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 11, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5849 with the following amendment(s): 5849 AMH REEV H2682.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1123. The legislature finds that:

- (1) Veterans are national heroes who have made great sacrifices in their lives for the protection of our nation;
- (2) Due to the relatively high number of military installations in our state, as well as the standard of living in our state, many veterans choose to live in Washington;
- (3) Many veterans have a need for support services, including peer-to-peer counseling services. Some veterans need to talk about their experiences with combat, deployment, or other situations experienced during their time in the military. Often, there is no person better prepared to speak with a veteran about his or her experiences than another veteran;
- (4) In 2009, the state of Texas created an award winning peer-to-peer counseling network, called the military veteran peer network. On a voluntary basis, veterans elect to receive

specialized training about the facilitation of group counseling sessions. After receiving their training, the volunteers create peer-to-peer support groups in their local communities;

(5) Veterans living in Washington would benefit from a program that is similar to the military veteran peer network.

Sec. 1124. RCW 43.60A.100 and 1991 c 55 s 1 are each amended to read as follows:

The department of veterans affairs, to the extent funds are made available, shall: (1) Contract with professional counseling specialists to provide a range of direct treatment services to ~~((war))~~ combat-affected state veterans and to those national guard and reservists who served in the Middle East, and their family members; (2) provide additional treatment services to Washington state Vietnam veterans for posttraumatic stress disorder, particularly for those veterans whose posttraumatic stress disorder has intensified or initially emerged due to ~~((the war))~~ combat in the Middle East; (3) provide an educational program designed to train primary care professionals, such as ~~((mental))~~ behavioral health professionals, about the effects of ~~((war))~~ combat-related stress and trauma; (4) provide informational and counseling services for the purpose of establishing and fostering peer-support networks throughout the state for families of deployed members of the reserves and the Washington national guard; (5) provide for veterans' families, a referral network of community mental health providers who are skilled in treating deployment stress, combat stress, and posttraumatic stress; and (6) offer training and support for volunteers interested in providing peer-to-peer support to other veterans.

NEW SECTION. Sec. 1125. The legislature finds that:

- (1) Washington state provides a stated preference for hiring veterans and provides a scoring preference for hiring and promotional opportunities to veterans in the form of enhanced test scores;
- (2) Few agencies outside of law enforcement use tests in hiring or promotion;
- (3) Veterans have experience that is broader than law enforcement and the state can benefit by recruiting people with this experience;
- (4) Veterans leave service with experience in transportation, teaching and education, logistics, computer technology, health care, media and communications, construction and engineering, and administrative support;
- (5) Many state agencies and other public employers are struggling to fill and retain employees in key positions;
- (6) Many public and private employers have developed veteran hiring and recruitment programs that take advantage of the broad experience that veterans bring to the job market.

NEW SECTION. Sec. 1126. A new section is added to chapter 43.41 RCW to read as follows:

- (1) The office shall develop a military recruitment program that targets veterans and gives them credit for their knowledge, skills, and leadership abilities. In developing the program, the office shall consult with the department of enterprise services, department of veteran affairs, the state military transition council, the veterans employee resource group, and other interested stakeholders. Program development must include, but is not limited to, identifying: (a) Public and private military recruitment programs and ways those programs can be used in Washington; (b) similar military and state job classes and develop a system to provide veterans with experience credit for similar work; and (c) barriers to state employment and opportunities to better utilize veterans experience.
- (2) The office shall report to the legislature with a draft plan by January 1, 2018, that includes draft bill language if necessary.

NEW SECTION. Sec. 1127. A new section is added to chapter 43.60A RCW to read as follows:

By December 31, 2018, the department of veterans affairs must submit a report to the legislature on the veteran peer-to-peer training and support program authorized in section 2 of this act to determine the effectiveness of the program in meeting the needs of veterans in the state. The report must include the number of veterans receiving peer-to-peer support and the location of such support services; the number of veterans trained through the program to provide peer-to-peer support; and the types of training and support services provided by the program. The report must also include an analysis of peer-to-peer training and support programs developed by other states, as well as in the private and nonprofit sectors, in order to evaluate best practices for implementing and managing the veteran peer-to-peer training and support program authorized in section 2 of this act."

Correct the title.

BERNARD DEAN, Chief Clerk

MOTION

Senator Angel moved that the Senate concur in the House amendment(s) to Senate Bill No. 5849.

Senator Angel spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Angel that the Senate concur in the House amendment(s) to Senate Bill No. 5849.

The motion by Senator Angel carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5849 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5849, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5849, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Excused: Senator Nelson

SENATE BILL NO. 5849, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 6, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5806 with the following amendment(s): 5806-S AMH WYLI H2618.3

Beginning on page 6, line 26, strike all of subsection (2) and insert the following:

"(2)(a) The joint Oregon-Washington legislative action committee is established, with sixteen members as provided in this subsection:

(i) The speaker and minority leader of the house of representatives of each state shall jointly appoint four members, two from each of the two largest caucuses of their state's house of representatives.

(ii) The majority leader and minority leader of the senate of each state shall jointly appoint four members, two from each of the two largest caucuses of their state's senate.

(b) The legislative action committee shall choose its cochaurs from among its membership, one each from the senate and the house of representatives of both states.

(c) Executive agencies, including the departments of transportation and the transportation commissions, shall cooperate with the committee and provide information and other assistance as the cochaurs may reasonably request.

(d) Staff support for the legislative action committee must be provided by the Washington house of representatives office of program research, Washington senate committee services, and, contingent upon the acceptance by the legislature of the state of Oregon of the invitation in subsection (1) of this section to participate in the legislative action committee, the Oregon legislative policy and research office.

(e) Legislative members of the legislative action committee are reimbursed for travel expenses. For Washington legislative members, this reimbursement must be in accordance with RCW 44.04.120.

(f) The expenses of the legislative action committee must be paid jointly by both states' senate and house of representatives. In Washington, committee expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(g) Each meeting of the legislative action committee must allow an opportunity for public comment. Legislative action committee meetings must be scheduled and conducted in accordance with the requirements of both the senate and the house of representatives of both states."

BERNARD DEAN, Chief Clerk

MOTION

Senator Cleveland moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5806.

Senator Cleveland spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Cleveland that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5806.

The motion by Senator Cleveland carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5806 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5806, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5806, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

Voting yea: Senators Angel, Bailey, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, O'Ban, Palumbo, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senators Baumgartner, Ericksen, Padden and Pearson

Excused: Senator Nelson

SUBSTITUTE SENATE BILL NO. 5806, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 10, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5715 with the following amendment(s): 5715 AMH APP H2611.1

Strike everything after the enacting clause and insert the following:

"Sec. 1128. RCW 74.46.485 and 2011 1st sp.s. c 7 s 4 are each amended to read as follows:

(1) The legislature recognizes that staff and resources needed to adequately care for individuals with cognitive or behavioral impairments is not limited to support for activities of daily living.

Therefore, the department shall:

(a) Employ the resource utilization group (~~(HH)~~ IV) case mix classification methodology. The department shall use the (~~forty-four~~) fifty-seven group index maximizing model for the resource utilization group (~~(HH)~~ IV) grouper version (~~(5-14)~~) MDS 3.05, but the department may revise or update the classification methodology to reflect advances or refinements in resident assessment or classification, subject to federal requirements. The department may adjust by no more than thirteen percent the case mix index for (~~any of the lowest ten~~) resource utilization group categories beginning with PA1 through (~~PE2~~) PB2 to any case mix index that aids in achieving the purpose and intent of RCW 74.39A.007 and cost-efficient care, excluding behaviors, and allowing for exceptions for limited placement options; and

(b) Implement minimum data set 3.0 under the authority of this section (~~and RCW 74.46.431(3)~~). The department must notify nursing home contractors twenty-eight days in advance the date of implementation of the minimum data set 3.0. In the notification, the department must identify for all semiannual rate settings following the date of minimum data set 3.0 implementation a previously established semiannual case mix adjustment established for the semiannual rate settings that will be used for semiannual case mix calculations in direct care until minimum data set 3.0 is fully implemented.

(2) The department is authorized to adjust upward the weights for resource utilization groups BA1-BB2 related to cognitive or behavioral health to ensure adequate access to appropriate levels of care.

(3) A default case mix group shall be established for cases in which the resident dies or is discharged for any purpose prior to completion of the resident's initial assessment. The default case mix group and case mix weight for these cases shall be designated by the department.

(~~(3)~~) (4) A default case mix group may also be established for cases in which there is an untimely assessment for the resident.

The default case mix group and case mix weight for these cases shall be designated by the department.

Sec. 1129. RCW 74.46.561 and 2016 c 131 s 1 are each amended to read as follows:

(1) The legislature adopts a new system for establishing nursing home payment rates beginning July 1, 2016. Any payments to nursing homes for services provided after June 30, 2016, must be based on the new system. The new system must be designed in such a manner as to decrease administrative complexity associated with the payment methodology, reward nursing homes providing care for high acuity residents, incentivize quality care for residents of nursing homes, and establish minimum staffing standards for direct care.

(2) The new system must be based primarily on industry-wide costs, and have three main components: Direct care, indirect care, and capital.

(3) The direct care component must include the direct care and therapy care components of the previous system, along with food, laundry, and dietary services. Direct care must be paid at a fixed rate, based on one hundred percent or greater of statewide case mix neutral median costs, but shall be set so that a nursing home provider's direct care rate does not exceed one hundred eighteen percent of its base year's direct care allowable costs except if the provider is below the minimum staffing standard established in RCW 74.42.360(2). Direct care must be performance-adjusted for acuity every six months, using case mix principles. Direct care must be regionally adjusted using county wide wage index information available through the United States department of labor's bureau of labor statistics. There is no minimum occupancy for direct care. The direct care component rate allocations calculated in accordance with this section must be adjusted to the extent necessary to comply with RCW 74.46.421.

(4) The indirect care component must include the elements of administrative expenses, maintenance costs, and housekeeping services from the previous system. A minimum occupancy assumption of ninety percent must be applied to indirect care. Indirect care must be paid at a fixed rate, based on ninety percent or greater of statewide median costs. The indirect care component rate allocations calculated in accordance with this section must be adjusted to the extent necessary to comply with RCW 74.46.421.

(5) The capital component must use a fair market rental system to set a price per bed. The capital component must be adjusted for the age of the facility, and must use a minimum occupancy assumption of ninety percent.

(a) Beginning July 1, 2016, the fair rental rate allocation for each facility must be determined by multiplying the allowable nursing home square footage in (c) of this subsection by the RS means rental rate in (d) of this subsection and by the number of licensed beds yielding the gross unadjusted building value. An equipment allowance of ten percent must be added to the unadjusted building value. The sum of the unadjusted building value and equipment allowance must then be reduced by the average age of the facility as determined by (e) of this subsection using a depreciation rate of one and one-half percent. The depreciated building and equipment plus land valued at ten percent of the gross unadjusted building value before depreciation must then be multiplied by the rental rate at seven and one-half percent to yield an allowable fair rental value for the land, building, and equipment.

(b) The fair rental value determined in (a) of this subsection must be divided by the greater of the actual total facility census from the prior full calendar year or imputed census based on the number of licensed beds at ninety percent occupancy.

(c) For the rate year beginning July 1, 2016, all facilities must be reimbursed using four hundred square feet. For the rate year beginning July 1, 2017, allowable nursing facility square footage

must be determined using the total nursing facility square footage as reported on the medicaid cost reports submitted to the department in compliance with this chapter. The maximum allowable square feet per bed may not exceed four hundred fifty.

(d) Each facility must be paid at eighty-three percent or greater of the median nursing facility RS means construction index value per square foot for Washington state. The department may use updated RS means construction index information when more recent square footage data becomes available. The statewide value per square foot must be indexed based on facility zip code by multiplying the statewide value per square foot times the appropriate zip code based index. For the purpose of implementing this section, the value per square foot effective July 1, 2016, must be set so that the weighted average FRV \fair rental value.doc rate is not less than ten dollars and eighty cents ppd \per patient day.doc. The capital component rate allocations calculated in accordance with this section must be adjusted to the extent necessary to comply with RCW 74.46.421.

(e) The average age is the actual facility age reduced for significant renovations. Significant renovations are defined as those renovations that exceed two thousand dollars per bed in a calendar year as reported on the annual cost report submitted in accordance with this chapter. For the rate beginning July 1, 2016, the department shall use renovation data back to 1994 as submitted on facility cost reports. Beginning July 1, 2016, facility ages must be reduced in future years if the value of the renovation completed in any year exceeds two thousand dollars times the number of licensed beds. The cost of the renovation must be divided by the accumulated depreciation per bed in the year of the renovation to determine the equivalent number of new replacement beds. The new age for the facility is a weighted average with the replacement bed equivalents reflecting an age of zero and the existing licensed beds, minus the new bed equivalents, reflecting their age in the year of the renovation. At no time may the depreciated age be less than zero or greater than forty-four years.

(f) A nursing facility's capital component rate allocation must be rebased annually, effective July 1, 2016, in accordance with this section and this chapter.

(6) A quality incentive must be offered as a rate enhancement beginning July 1, 2016.

(a) An enhancement no larger than five percent and no less than one percent of the statewide average daily rate must be paid to facilities that meet or exceed the standard established for the quality incentive. All providers must have the opportunity to earn the full quality incentive payment.

(b) The quality incentive component must be determined by calculating an overall facility quality score composed of four to six quality measures. For fiscal year 2017 there shall be four quality measures, and for fiscal year 2018 there shall be six quality measures. Initially, the quality incentive component must be based on minimum data set quality measures for the percentage of long-stay residents who self-report moderate to severe pain, the percentage of high-risk long-stay residents with pressure ulcers, the percentage of long-stay residents experiencing one or more falls with major injury, and the percentage of long-stay residents with a urinary tract infection. Quality measures must be reviewed on an annual basis by a stakeholder work group established by the department. Upon review, quality measures may be added or changed. The department may risk adjust individual quality measures as it deems appropriate.

(c) The facility quality score must be point based, using at a minimum the facility's most recent available three-quarter average CMS \centers for medicare and medicaid services.doc quality data. Point thresholds for each quality measure must be established using the corresponding statistical values for the

quality measure (QM) point determinants of eighty QM points, sixty QM points, forty QM points, and twenty QM points, identified in the most recent available five-star quality rating system technical user's guide published by the center for medicare and medicaid services.

(d) Facilities meeting or exceeding the highest performance threshold (top level) for a quality measure receive twenty-five points. Facilities meeting the second highest performance threshold receive twenty points. Facilities meeting the third level of performance threshold receive fifteen points. Facilities in the bottom performance threshold level receive no points. Points from all quality measures must then be summed into a single aggregate quality score for each facility.

(e) Facilities receiving an aggregate quality score of eighty percent of the overall available total score or higher must be placed in the highest tier (tier V), facilities receiving an aggregate score of between seventy and seventy-nine percent of the overall available total score must be placed in the second highest tier (tier IV), facilities receiving an aggregate score of between sixty and sixty-nine percent of the overall available total score must be placed in the third highest tier (tier III), facilities receiving an aggregate score of between fifty and fifty-nine percent of the overall available total score must be placed in the fourth highest tier (tier II), and facilities receiving less than fifty percent of the overall available total score must be placed in the lowest tier (tier I).

(f) The tier system must be used to determine the amount of each facility's per patient day quality incentive component. The per patient day quality incentive component for tier IV is seventy-five percent of the per patient day quality incentive component for tier V, the per patient day quality incentive component for tier III is fifty percent of the per patient day quality incentive component for tier V, and the per patient day quality incentive component for tier II is twenty-five percent of the per patient day quality incentive component for tier V. Facilities in tier I receive no quality incentive component.

(g) Tier system payments must be set in a manner that ensures that the entire biennial appropriation for the quality incentive program is allocated.

(h) Facilities with insufficient three-quarter average CMS \centers for medicare and medicaid services.doc quality data must be assigned to the tier corresponding to their five-star quality rating. Facilities with a five-star quality rating must be assigned to the highest tier (tier V) and facilities with a one-star quality rating must be assigned to the lowest tier (tier I). The use of a facility's five-star quality rating shall only occur in the case of insufficient CMS \centers for medicare and medicaid services.doc minimum data set information.

(i) The quality incentive rates must be adjusted semiannually on July 1 and January 1 of each year using, at a minimum, the most recent available three-quarter average CMS \centers for medicare and medicaid services.doc quality data.

(j) Beginning July 1, 2017, the percentage of short-stay residents who newly received an antipsychotic medication must be added as a quality measure. The department must determine the quality incentive thresholds for this quality measure in a manner consistent with those outlined in (b) through (h) of this subsection using the centers for medicare and medicaid services quality data.

(k) Beginning July 1, 2017, the percentage of direct care staff turnover must be added as a quality measure using the centers for medicare and medicaid services' payroll-based journal and nursing home facility payroll data. Turnover is defined as an employee departure. The department must determine the quality incentive thresholds for this quality measure using data from the centers for medicare and medicaid services' payroll-based journal, unless such data is not available, in which case the

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

department shall use direct care staffing turnover data from the most recent medicaid cost report.

(7) Reimbursement of the safety net assessment imposed by chapter 74.48 RCW and paid in relation to medicaid residents must be continued.

(8) The direct care and indirect care components must be rebased in even-numbered years, beginning with rates paid on July 1, 2016. Rates paid on July 1, 2016, must be based on the 2014 calendar year cost report. On a percentage basis, after rebasing, the department must confirm that the statewide average daily rate has increased at least as much as the average rate of inflation, as determined by the skilled nursing facility market basket index published by the centers for medicare and medicaid services, or a comparable index. If after rebasing, the percentage increase to the statewide average daily rate is less than the average rate of inflation for the same time period, the department is authorized to increase rates by the difference between the percentage increase after rebasing and the average rate of inflation.

(9) The direct care component provided in subsection (3) of this section is subject to the reconciliation and settlement process provided in RCW 74.46.022(6). Beginning July 1, 2016, pursuant to rules established by the department, funds that are received through the reconciliation and settlement process provided in RCW 74.46.022(6) must be used for technical assistance, specialized training, or an increase to the quality enhancement established in subsection (6) of this section. The legislature intends to review the utility of maintaining the reconciliation and settlement process under a price-based payment methodology, and may discontinue the reconciliation and settlement process after the 2017-2019 fiscal biennium.

(10) Compared to the rate in effect June 30, 2016, including all cost components and rate add-ons, no facility may receive a rate reduction of more than one percent on July 1, 2016, more than two percent on July 1, 2017, or more than five percent on July 1, 2018. To ensure that the appropriation for nursing homes remains cost neutral, the department is authorized to cap the rate increase for facilities in fiscal years 2017, 2018, and 2019.

NEW SECTION. **Sec. 1130.** If specific funding for the purpose of this act, referencing the act by bill or chapter number, is not provided by June 30, 2017, in the omnibus appropriations act, this act is null and void."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Rivers moved that the Senate concur in the House amendment(s) to Senate Bill No. 5715.

Senator Rivers spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rivers that the Senate concur in the House amendment(s) to Senate Bill No. 5715.

The motion by Senator Rivers carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5715 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5715, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5715, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Excused: Senator Nelson

SENATE BILL NO. 5715, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 10, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5635 with the following amendment(s): 5635 AMH PS H2526.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1131.** RCW 9A.56.360 and 2013 c 153 s 1 are each amended to read as follows:

(1) A person commits retail theft with special circumstances if he or she commits theft of property from a mercantile establishment with one of the following special circumstances:

(a) To facilitate the theft, the person leaves the mercantile establishment through a designated emergency exit;

(b) The person was, at the time of the theft, in possession of an item, article, implement, or device used, under circumstances evincing an intent to use or employ, or designed to overcome security systems including, but not limited to, lined bags or tag removers; or

(c) The person committed theft at three or more separate and distinct mercantile establishments within a one hundred eighty-day period.

(2) A person is guilty of retail theft with special circumstances in the first degree if the theft involved constitutes theft in the first degree. Retail theft with special circumstances in the first degree is a class B felony.

(3) A person is guilty of retail theft with special circumstances in the second degree if the theft involved constitutes theft in the second degree. Retail theft with special circumstances in the second degree is a class C felony.

(4) A person is guilty of retail theft with special circumstances in the third degree if the theft involved constitutes theft in the third degree. Retail theft with special circumstances in the third degree is a class C felony.

(5) For the purposes of this section, "special circumstances" means the particular aggravating circumstances described in subsection (1)(a) through (c) of this section.

(6)(a) A series of thefts committed by the same person from one or more mercantile establishments over a period of one hundred eighty days may be aggregated in one count and the sum of the value of all the property shall be the value considered in determining the degree of the retail theft with special circumstances involved. Thefts committed by the same person in different counties that have been aggregated in one county may be prosecuted in any county in which any one of the thefts occurred. In no case may an aggregated series of thefts, or a single theft that has been aggregated in one county, be prosecuted in more than one county.

(b) The mercantile establishment or establishments whose property is alleged to have been stolen may request that the charge be aggregated with other thefts of property about which the mercantile establishment or establishments is aware. In the event a request to aggregate the prosecution is declined, the mercantile establishment or establishments shall be promptly advised by the prosecuting jurisdiction making the decision to decline aggregating the prosecution of the decision and the reasons for the decision."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Padden moved that the Senate concur in the House amendment(s) to Senate Bill No. 5635.

Senators Padden and Pedersen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Padden that the Senate concur in the House amendment(s) to Senate Bill No. 5635.

The motion by Senator Padden carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5635 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5635, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5635, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senator Hasegawa

Excused: Senator Nelson

SENATE BILL NO. 5635, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 6, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5618 with the following amendment(s): 5618-S AMH ELHS H2482.1

Strike everything after the enacting clause and insert the following:

"Sec. 1132. RCW 10.31.100 and 2016 c 203 s 9 and 2016 c 113 s 1 are each reenacted and amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the

presence of an officer, except as provided in subsections (1) through ~~((12))~~ (11) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) A foreign protection order, as defined in RCW 26.52.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime; or

(c) The person is eighteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (A) The intent to protect victims of domestic violence under RCW 10.99.010; (B) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (C) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

~~(3) ((A police officer shall, at the request of a parent or guardian, arrest the sixteen or seventeen year old child of that parent or guardian if the officer has probable cause to believe that the child has assaulted a family or household member as defined in RCW 10.99.020 in the preceding four hours. Nothing in this subsection removes a police officer's existing authority provided in this section to make an arrest.~~

~~((4))~~ Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

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

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

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol or THC in their system;

(f) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(g) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

~~((5))~~ (4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

~~((6))~~ (5)(a) A law enforcement officer investigating at the scene of a motor vessel accident may arrest the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a criminal violation of chapter 79A.60 RCW.

(b) A law enforcement officer investigating at the scene of a motor vessel accident may issue a citation for an infraction to the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a violation of any boating safety law of chapter 79A.60 RCW.

~~((7))~~ (6) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

~~((8))~~ (7) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

~~((9))~~ (8) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

~~((10))~~ (9) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

~~((11))~~ (10) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

~~((12))~~ (11) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

~~((13))~~ (12) A law enforcement officer having probable cause to believe that a person has committed a violation under RCW 77.15.160(4) may issue a citation for an infraction to the person in connection with the violation.

~~((14))~~ (13) A law enforcement officer having probable cause to believe that a person has committed a criminal violation under RCW 77.15.809 or 77.15.811 may arrest the person in connection with the violation.

~~((15))~~ (14) Except as specifically provided in subsections (2), (3), (4), ~~((5))~~ and ~~((8))~~ (7) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

~~((16))~~ (15) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or ~~((10))~~ (9) of this section if the police officer acts in good faith and without malice.

~~((17))~~ (16)(a) Except as provided in (b) of this subsection, a police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years.

(b) A police officer is not required to keep in custody a person under (a) of this subsection if the person requires immediate medical attention and is admitted to a hospital.

~~((18) A juvenile detention facility shall book into detention any person under age eighteen brought to that detention facility pursuant to an arrest for assaulting a family or household member as defined in RCW 10.99.020.)"~~

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Darneille moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5618.

Senator Darneille spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Darneille that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5618.

The motion by Senator Darneille carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5618 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5618, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5618, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler,

Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Excused: Senator Nelson

SUBSTITUTE SENATE BILL NO. 5618, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 11, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5632 with the following amendment(s): 5632 AMH PS H2525.1

Strike everything after the enacting clause and insert the following:

"Sec. 1133. RCW 9A.56.350 and 2009 c 431 s 15 are each amended to read as follows:

(1) A person is guilty of organized retail theft if he or she:

(a) Commits theft of property with a value of at least seven hundred fifty dollars from a mercantile establishment with an accomplice;

(b) Possesses stolen property, as defined in RCW 9A.56.140, with a value of at least seven hundred fifty dollars from a mercantile establishment with an accomplice; ((or))

(c) Commits theft of property with a cumulative value of at least seven hundred fifty dollars from one or more mercantile establishments within a period of up to one hundred eighty days; or

(d) Commits theft of property with a cumulative value of at least seven hundred fifty dollars from a mercantile establishment with no less than six accomplices and makes or sends at least one electronic communication seeking participation in the theft in the course of planning or commission of the theft. For the purposes of this subsection, "electronic communication" has the same meaning as defined in RCW 9.61.260(5).

(2) A person is guilty of organized retail theft in the first degree if the property stolen or possessed has a value of five thousand dollars or more. Organized retail theft in the first degree is a class B felony.

(3) A person is guilty of organized retail theft in the second degree if the property stolen or possessed has a value of at least seven hundred fifty dollars, but less than five thousand dollars. Organized retail theft in the second degree is a class C felony.

(4) For purposes of this section, a series of thefts committed by the same person from one or more mercantile establishments over a period of one hundred eighty days may be aggregated in one count and the sum of the value of all the property shall be the value considered in determining the degree of the organized retail theft involved. Thefts committed by the same person in different counties that have been aggregated in one county may be prosecuted in any county in which any one of the thefts occurred. For purposes of subsection (1)(d) of this section, thefts committed by the principal and accomplices may be aggregated into one count and the value of all the property shall be the value considered in determining the degree of organized retail theft involved.

(5) The mercantile establishment or establishments whose property is alleged to have been stolen may request that the charge be aggregated with other thefts of property about which the mercantile establishment or establishments is aware. In the event a request to aggregate the prosecution is declined, the mercantile establishment or establishments shall be promptly advised by the prosecuting jurisdiction making the decision to decline

aggregating the prosecution of the decision and the reasons for such decision."

Correct the title.

BERNARD DEAN, Chief Clerk

MOTION

Senator O'Ban moved that the Senate concur in the House amendment(s) to Senate Bill No. 5632.

Senators O'Ban and Pedersen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator O'Ban that the Senate concur in the House amendment(s) to Senate Bill No. 5632.

The motion by Senator O'Ban carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5632 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5632, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5632, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hawkins, Hobbs, Honeyford, Keiser, King, Kuderer, McCoy, Miloscia, Mullet, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senators Chase, Hasegawa, Hunt, Lias and Saldaña

Excused: Senator Nelson

SENATE BILL NO. 5632, as amended by the House, 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 Padden: "Thank you Mr. President. I just wanted to say a few words about the late Senator Mike Carrell since this bill is one that he worked on when he was Vice-Chair of the Law & Justice Committee. Senator Carrell was a remarkable senator. I knew him first when I actually chaired the House Law & Justice Committee back in 1994 and he was a brand new representative at that time and he was kind of focused, not exclusively, but primarily on father's rights issues. And then when I came back to the Senate in 2011 and he was now a senator, to see the maturity and change and I saw how well he worked with a number of people, including the gentlelady from the 27th District and especially former Senator Hargrove. I will never forget when he was suffering so much and had to be out of the Senate and Senator Hargrove told him 'Don't worry, if there is a bill that would have passed with your vote, I will make sure that it is not defeated.' And you just don't see that very much any more, they had such a close friendship. Anyway, he was a remarkable senator. I always enjoyed his Mr. Science lectures, all of us, as a high school science teacher. And I just think it is very fitting that his successor would carry this bill and that we finally would pass it. So, thank you Mr. President."

REMARKS BY THE PRESIDENT

President Habib: "Thank you Senator Padden. Thank you for bringing that memory and that recollection of Senator Carrell to us. As we commemorate every year those who have been lost that previous year, we also remember that there are those who have been lost in previous years and it is wonderful to have them and their legacy be made real to us. Especially for those of us who knew but didn't get a chance to work with him closely, so thank you for bringing that Senator Padden."

MESSAGE FROM THE HOUSE

April 6, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5035 with the following amendment(s): 5035-S AMH CODY H2621.1

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1134. The legislature finds that the process for approval of investigational drugs, biological products, and devices in the United States protects future patients from premature, ineffective, and unsafe medications and treatments over time, but the process often takes many years. Patients who have a terminal illness do not have the luxury of waiting until an investigational drug, biological product, or device receives final approval from the United States food and drug administration. The legislature further finds that patients who have a terminal illness should be permitted to pursue the preservation of their own lives by accessing available investigational drugs, biological products, and devices. The use of available investigational drugs, biological products, and devices is a decision that should be made by the patient with a terminal illness in consultation with the patient's health care provider so that the decision to use an investigational drug, biological product, or device is made with full awareness of the potential risks, benefits, and consequences to the patient and the patient's family.

The legislature, therefore, intends to allow terminally ill patients to use potentially lifesaving investigational drugs, biological products, and devices.

NEW SECTION. Sec. 1135. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Eligible patient" means an individual who meets the requirements of section 4 of this act.
- (2) "Health care facility" means a clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.
- (3) "Hospital" means a health care institution licensed under chapter 70.41, 71.12, or 72.23 RCW.
- (4) "Investigational product" means a drug, biological product, or device that has successfully completed phase one and is currently in a subsequent phase of a clinical trial approved by the United States food and drug administration assessing the safety of the drug, biological product, or device under section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355.
- (5) "Issuer" means any state purchased health care programs under chapter 41.05 or 74.09 RCW, a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020.
- (6) "Manufacturer" means a person or other entity engaged in the manufacture or distribution of drugs, biological products, or devices.

(7) "Physician" means a physician licensed under chapter 18.71 RCW or an osteopathic physician and surgeon licensed under chapter 18.57 RCW.

(8) "Serious or immediately life-threatening disease or condition" means a stage of disease in which there is reasonable likelihood that death will occur within six months or in which premature death is likely without early treatment.

NEW SECTION. Sec. 1136. (1) An eligible patient and his or her treating physician may request that a manufacturer make an investigational product available for treatment of the patient. The request must include a copy of the written informed consent form described in section 5 of this act and an explanation of why the treating physician believes the investigational product may help the patient.

(2) Upon receipt of the request and the written informed consent form, the manufacturer may, but is not required to, make the investigational product available for treatment of the eligible patient. Prior to making the investigational product available, the manufacturer shall enter into an agreement with the treating physician and the eligible patient providing that the manufacturer will transfer the investigational product to the physician and the physician will use the investigational product to treat the eligible patient.

NEW SECTION. Sec. 1137. A patient is eligible to request access to and be treated with an investigational product if:

- (1) The patient is eighteen years of age or older;
- (2) The patient is a resident of this state;
- (3) The patient's treating physician attests to the fact that the patient has a serious or immediately life-threatening disease or condition;
- (4) The patient acknowledges having been informed by the treating physician of all other treatment options currently approved by the United States food and drug administration;
- (5) The patient's treating physician recommends that the patient be treated with an investigational product;
- (6) The patient is unable to participate in a clinical trial for the investigational product because the patient's physician has contacted one or more clinical trials or researchers in the physician's practice area and has determined, using the physician's professional judgment, that there are no clinical trials reasonably available for the patient to participate in, that the patient would not qualify for a clinical trial, or that delay in waiting to join a clinical trial would risk further harm to the patient; and
- (7) In accordance with section 5 of this act, the patient has provided written informed consent for the use of the investigational product, or, if the patient lacks the capacity to consent, the patient's legally authorized representative has provided written informed consent on behalf of the patient.

NEW SECTION. Sec. 1138. (1) Prior to treatment of the eligible patient with an investigational product, the treating physician shall obtain written informed consent, consistent with the requirements of RCW 7.70.060(1), and signed by the eligible patient or, if the patient lacks the capacity to consent, his or her legally authorized representative.

- (2) Information provided in order to obtain the informed consent must, to the extent possible, include the following:
 - (a) That the patient has been diagnosed with a serious or immediately life-threatening disease or condition and explains the currently approved products and treatments for the disease or condition from which the eligible patient suffers;
 - (b) That all currently approved and conventionally recognized treatments are unlikely to prolong the eligible patient's life;
 - (c) Clear identification of the investigational product that the eligible patient seeks to use;

(d) The potentially best and worst outcomes of using the investigational product and a realistic description of the most likely outcome. This description must include the possibility that new, unanticipated, different, or worse symptoms may result and that death could be hastened by the proposed treatment. The description must be based on the physician's knowledge of the proposed treatment in conjunction with an awareness of the eligible patient's condition;

(e) That the eligible patient's health benefit plan is not obligated to pay for the investigational product or any harm caused to the eligible patient by the investigational product, unless otherwise specifically required to do so by law or contract, and that in order to receive the investigational product the patient may be required to pay the costs of administering the investigational product; and

(f) That the eligible patient is liable for all expenses consequent to the use of the investigational product, except as otherwise provided in the eligible patient's health benefit plan or a contract between the eligible patient and the manufacturer of the investigational product.

(3) The document must be signed and dated by the eligible patient's treating physician and witnessed in writing by at least one adult.

NEW SECTION. Sec. 1139. (1) An issuer may, but is not required to, provide coverage for the cost or the administration of an investigational product provided to an eligible patient pursuant to this chapter.

(2)(a) An issuer may deny coverage to an eligible patient who is treated with an investigational product for harm to the eligible patient caused by the investigational product and is not required to cover the costs associated with receiving the investigational product or the costs demonstrated to be associated with an adverse effect that is a result of receiving the investigational product.

(b) Except as stated in (a) of this subsection, an issuer may not deny coverage to an eligible patient for: (i) The eligible patient's serious or immediately life-threatening disease or condition; (ii) benefits that accrued before the day on which the eligible patient was treated with an investigational product; or (iii) palliative or hospice care for an eligible patient who was previously treated with an investigational product but who is no longer being treated with an investigational product.

NEW SECTION. Sec. 1140. A hospital or health care facility:

(1) May, but is not required to, allow a health care practitioner who is privileged to practice or who is employed at the hospital or health care facility to treat, administer, or provide an investigational product to an eligible patient under this chapter;

(2) May establish a policy regarding treating, administering, or providing investigational products under this chapter; and

(3) Is not obligated to pay for the investigational product or any harm caused to the eligible patient by the product, or any care that is necessary as a result of the use of the investigational product, including under chapter 70.170 RCW.

NEW SECTION. Sec. 1141. (1) This act does not create a private right of action.

(2) A health care practitioner does not commit unprofessional conduct under RCW 18.130.180 and does not violate the applicable standard of care by:

(a) Obtaining an investigational product pursuant to this chapter;

(b) Refusing to recommend, request, prescribe, or otherwise provide an investigational product pursuant to this chapter;

(c) Administering an investigational product to an eligible patient pursuant to this chapter; or

(d) Treating an eligible patient with an investigational product pursuant to this chapter.

(3) The following persons and entities are immune from civil or criminal liability and administrative actions arising out of

treatment of an eligible patient with an investigational product, other than acts or omissions constituting gross negligence or willful or wanton misconduct:

(a) A health care practitioner who recommends or requests an investigational product for an eligible patient in compliance with this chapter;

(b) A health care practitioner who refuses to recommend or request an investigational product for a patient seeking access to an investigational product;

(c) A manufacturer that provides an investigational product to a health care practitioner in compliance with this chapter;

(d) A hospital or health care facility where an investigational product is either administered or provided to an eligible patient in compliance with this chapter; and

(e) A hospital or health care facility that does not allow a health care practitioner to provide treatment with an investigational product or enforces a policy it has adopted regarding treating, administering, or providing care with an investigational product.

NEW SECTION. Sec. 1142. The pharmacy quality assurance commission may adopt rules necessary to implement this chapter.

Sec. 1143. RCW 69.04.570 and 2012 c 117 s 338 are each amended to read as follows:

Except as permitted by chapter 69--- RCW (the new chapter created in section 12 of this act), no person shall introduce or deliver for introduction into intrastate commerce any new drug which is subject to section 505 of the federal act unless an application with respect to such drug has become effective thereunder. No person shall introduce or deliver for introduction into intrastate commerce any new drug which is not subject to section 505 of the federal act, unless (1) it has been found, by appropriate tests, that such drug is not unsafe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; and (2) an application has been filed under this section of this chapter with respect to such drug: PROVIDED, That the requirement of subsection (2) of this section shall not apply to any drug introduced into intrastate commerce at any time prior to the enactment of this chapter or introduced into interstate commerce at any time prior to the enactment of the federal act: PROVIDED FURTHER, That if the director finds that the requirement of subsection (2) of this section as applied to any drug or class of drugs, is not necessary for the protection of the public health, he or she shall promulgate regulations of exemption accordingly.

Sec. 1144. RCW 69.50.101 and 2015 2nd sp.s. c 4 s 901 are each reenacted and amended to read as follows:

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

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(d) "Commission" means the pharmacy quality assurance commission.

(e) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules.

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

(f)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or chapter 69.--- RCW (the new chapter created in section 12 of this act) to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(g) "Deliver" or "delivery(ς)" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(h) "Department" means the department of health.

(i) "Designated provider" has the meaning provided in RCW 69.51A.010.

(j) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(k) "Dispenser" means a practitioner who dispenses.

(l) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(m) "Distributor" means a person who distributes.

(n) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(o) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(p) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(q) "Immediate precursor" means a substance:

(1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(r) "Isomer" means an optical isomer, but in subsection (dd)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(s) "Lot" means a definite quantity of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(t) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product.

(u) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(v) "Marijuana" or "marihuana" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(w) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(x) "Marijuana processor" means a person licensed by the state liquor and cannabis board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

(y) "Marijuana producer" means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(z) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

(aa) "Marijuana researcher" means a person licensed by the state liquor and cannabis board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

(bb) "Marijuana retailer" means a person licensed by the state liquor and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

(cc) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection (v) of this section, and have a THC concentration no greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

(dd) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in subparagraphs (1) through (7).

(ee) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(ff) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(gg) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(hh) "Plant" has the meaning provided in RCW 69.51A.010.

(ii) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(jj) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical quality assurance commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(kk) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(ll) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(mm) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

(nn) "Recognition card" has the meaning provided in RCW 69.51A.010.

(oo) "Retail outlet" means a location licensed by the state liquor and cannabis board for the retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products.

(pp) "Secretary" means the secretary of health or the secretary's designee.

(qq) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(rr) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

(ss) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

(tt) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

SUBSTITUTE SENATE BILL NO. 5327,
 SUBSTITUTE SENATE BILL NO. 5346,
 SUBSTITUTE SENATE BILL NO. 5358,
 SENATE BILL NO. 5359,
 SECOND SUBSTITUTE SENATE BILL NO. 5474.

NEW SECTION. Sec. 1145. Sections 1 through 9 of this act constitute a new chapter in Title 69 RCW.

NEW SECTION. Sec. 1146. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MESSAGE FROM THE HOUSE

April 10, 2017

MOTION

Senator Pedersen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5035.

Senator Pedersen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pedersen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5035.

The motion by Senator Pedersen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5035 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5035, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5035, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Erickson, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Excused: Senator Nelson

SUBSTITUTE SENATE BILL NO. 5035, as amended by the House, 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.

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

SUBSTITUTE SENATE BILL NO. 5022,
 SENATE BILL NO. 5030,
 SUBSTITUTE SENATE BILL NO. 5138,
 SUBSTITUTE SENATE BILL NO. 5152,
 SENATE BILL NO. 5177,
 ENGROSSED SENATE BILL NO. 5234,
 SECOND SUBSTITUTE SENATE BILL NO. 5258,
 ENGROSSED SENATE BILL NO. 5266,

MR. PRESIDENT:

The House passed SENATE BILL NO. 5119 with the following amendment(s): 5119 AMH LG H2454.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 57.20 RCW to read as follows:

(1) The board of commissioners of a district with revenues of five million dollars or more in each of the preceding three years that were audited in accordance with RCW 43.09.260 may by resolution adopt a policy to issue its own warrants for payment of claims or other obligations of the district. The board of commissioners, after auditing all payrolls and bills, may authorize the issuing of one general certificate to the county treasurer, to be signed by the president of the board of commissioners, authorizing the county treasurer to pay all the warrants specified by date, number, name, and amount, and the accounting funds on which the warrants are drawn. The district may then issue the warrants specified in the general certificate.

(2) The board of commissioners of a district with revenues greater than two hundred fifty thousand dollars and less than five million dollars in each of the preceding three years that were audited in accordance with RCW 43.09.260 may upon agreement between the county treasurer and the district commission, with approval of the district commission by resolution, adopt a policy to issue its own warrants for payment of claims or other obligations of the district. The board of commissioners, after auditing all payrolls and bills, may authorize the issuing of one general certificate to the county treasurer, to be signed by the president of the board of commissioners, authorizing the county treasurer to pay all the warrants specified by date, number, name, and amount, and the accounting funds on which the warrants are drawn. The district may then issue the warrants specified in the general certificate.

NEW SECTION. Sec. 2. A new section is added to chapter 57.08 RCW to read as follows:

(1) Any water-sewer district may elect to contract for asset management service of its water storage assets in accordance with this section. If a water-sewer district elects to contract under this subsection for all, some, or one component of water storage asset management services for its water storage assets, each water-sewer district shall publish notice of its requirements to procure asset management service of its water storage assets. The announcement must concisely state the scope and nature of the water storage asset management service for which a contract is required and encourage firms to submit proposals to meet these requirements. If a water-sewer district chooses to negotiate a water storage asset management service contract under this section, no otherwise applicable statutory procurement requirement applies.

(2) The water-sewer district may negotiate a fair and reasonable water storage asset management service contract with the firm that submits the best proposal based on criteria that is established by the water-sewer district.

(3) If the water-sewer district is unable to negotiate a satisfactory water storage asset management service contract with the firm

that submits the best proposal, negotiations with that firm must formally be terminated and the water-sewer district may select another firm in accordance with this section and continue negotiation until a water storage asset management service contract is reached or the selection process is terminated.

(4) For the purposes of this section:

(a) "Water storage asset management services" means the financing, designing, improving, operating, maintaining, repairing, testing, inspecting, cleaning, administering, or managing, or any combination thereof, of a water storage asset.

(b) "Water storage asset" means water storage structures and associated distribution systems, such as the water tank, tower, well, meter, or water filter.

Sec. 3. RCW 70.95A.020 and 1973 c 132 s 3 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Municipality" shall mean any city, town, county, ~~((or))~~ port district, or water-sewer district in the state;

(2) "Facility" or "facilities" shall mean any land, building, structure, machinery, system, fixture, appurtenance, equipment or any combination thereof, or any interest therein, and all real and personal properties deemed necessary in connection therewith whether or not now in existence, which is used or to be used by any person, corporation or municipality in furtherance of the purpose of abating, controlling or preventing pollution;

(3) "Pollution" shall mean any form of environmental pollution, including but not limited to water pollution, air pollution, land pollution, solid waste disposal, thermal pollution, radiation contamination, or noise pollution;

(4) "Governing body" shall mean the body or bodies in which the legislative powers of the municipality are vested;

(5) "Mortgage" shall mean a mortgage or a mortgage and deed of trust or other security device; and

(6) "Department" shall mean the state department of ecology."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Short moved that the Senate concur in the House amendment(s) to Senate Bill No. 5119.

Senator Short spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Short that the Senate concur in the House amendment(s) to Senate Bill No. 5119.

The motion by Senator Short carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5119 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5119, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5119, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senators Chase and Hasegawa

SENATE BILL NO. 5119, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 5, 2017

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5173 with the following amendment(s): 5173-S.E AMH ENGR H2419.E

Strike everything after the enacting clause and insert the following:

"**Sec. 4.** RCW 43.19.003 and 2011 1st sp.s. c 43 s 102 are each amended to read as follows:

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

(1) "Department" means the department of enterprise services.

(2) "Director" means the director of enterprise services.

(3) "State agency" means every state agency, office, officer, board, commission, institution, and institution of higher education, including all state universities, regional universities, The Evergreen State College, and community and technical colleges.

Sec. 5. RCW 43.19.782 and 2011 1st sp.s. c 43 s 508 are each amended to read as follows:

(1) ~~((The director))~~ In consultation with the department and upon delegation, a state agency shall appoint a loss prevention review team when the death of a person, serious injury to a person, or other substantial loss is alleged or suspected to be caused at least in part by the actions of a state agency~~((, unless the director in his or her discretion determines that the incident does not merit review))~~ except when the death, injury, or substantial loss is already being investigated by another federal or state agency, or by the affected state agency, pursuant to the federal or state agency requirements. Any review conducted by another agency or under other requirements must contain elements of subsection (3) of this section and must comply with section 3 of this act to the extent section 3 of this act does not conflict with statutes or rules governing those reviews. The department may also direct a state agency to conduct a loss prevention review ~~((team may also be appointed when any other substantial loss occurs as a result of agency policies, litigation or defense practices, or other management practices. When the director decides not to appoint a loss prevention review team he or she shall issue a statement of the reasons for the director's decision. The statement shall be made available on the department's web site. The director's decision pursuant to this section to appoint or not appoint a loss prevention review team shall not be admitted into evidence in a civil or administrative proceeding.))~~ after consultation with the affected agency as to the purpose, scope, necessary resources, and intended outcomes of the loss prevention review. The department may provide guidance to the state agency conducting the loss prevention review as requested by the state agency.

(2) A loss prevention review team shall consist of at least three ~~((but no more than five))~~ persons, and may include independent consultants, contractors, or state employees, but it shall not include any person ~~((employed by the agency))~~ directly involved in the loss or risk of loss giving rise to the review, nor any person with testimonial knowledge of the incident to be reviewed. At least one member of the review team shall have expertise relevant to the matter under review, but no more than half of the review team members may be employees of the affected agency.

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

(3) The loss prevention review team shall review the death, serious injury, or other incident and the circumstances surrounding it, evaluate its causes, and recommend steps to reduce the risk of such incidents occurring in the future. The loss prevention review team shall accomplish these tasks by reviewing relevant documents~~((;)) and interviewing persons with relevant knowledge((; and reporting its recommendations)).~~ The loss prevention review team must submit a report in writing to the director and the ((director)) head of the state agency involved in the loss or risk of loss ((within the time requested by the director)). The report must include the teams' findings, analyze the causes and contributing factors, analyze future risk, include methods that the agency will use to address and mitigate the risks identified, which may include changes to policies or procedures, and any legislative recommendation necessary to address and carry out the risk treatment strategies identified in the subject report and include the manner in which the agency will measure the effectiveness of its changes. The final report shall not disclose the contents of any documents required by law or regulation to be kept private or confidential, or that are subject to legal privilege or exemption.

(4) ~~((Pursuant to guidelines established by the director,))~~ The director may develop and enact rules to implement the provisions of this chapter that apply to all state agency loss prevention review teams. State agencies must notify the department immediately upon becoming aware of a death, serious injury, or other substantial loss that is alleged or suspected to be caused at least in part by the actions of the state agency.

(5) All state agencies shall provide the loss prevention review team ready access to relevant documents in their possession and ready access to their employees.

Sec. 6. RCW 43.19.783 and 2011 1st sp.s. c 43 s 509 are each amended to read as follows:

(1) The final report from ~~((a))~~ the state agency's loss prevention review team to the director shall be made public by the director promptly ~~((upon receipt))~~ after review, and shall be subject to public disclosure. The final report shall be subject to discovery in a civil or administrative proceeding. However, the final report shall not be admitted into evidence or otherwise used in a civil or administrative proceeding except pursuant to subsection (2) of this section.

(2) The relevant excerpt or excerpts from the final report of a loss prevention review team may be used to impeach a fact witness in a civil or administrative proceeding only if the party wishing to use the excerpt or excerpts from the report first shows the court by clear and convincing evidence that the witness, in testimony provided in deposition or at trial in the present proceeding, has contradicted his or her previous statements to the loss prevention review team on an issue of fact material to the present proceeding. In that case, the party may use only the excerpt or excerpts necessary to demonstrate the contradiction. This section shall not be interpreted as expanding the scope of material that may be used to impeach a witness.

(3) No member of a loss prevention review team may be examined in a civil or administrative proceeding as to (a) the work of the loss prevention review team, (b) the incident under review, (c) his or her statements, deliberations, thoughts, analyses, or impressions relating to the work of the loss prevention review team or the incident under review, or (d) the statements, deliberations, thoughts, analyses, or impressions of any other member of the loss prevention review team, or any person who provided information to it, relating to the work of the loss prevention review team or the incident under review.

(4) Any document that exists prior to the appointment of a loss prevention review team, or that is created independently of such

a team, does not become inadmissible merely because it is reviewed or used by the loss prevention review team. A person does not become unavailable as a witness merely because the person has been interviewed by or has provided a statement to a loss prevention review team. However, if called as a witness, the person may not be examined regarding the person's interactions with the loss prevention review team, including without limitation whether the loss prevention review team interviewed the person, what questions the loss prevention review team asked, and what answers the person provided to the loss prevention review team. This section shall not be construed as restricting the person from testifying fully in any proceeding regarding his or her knowledge of the incident under review.

(5) Documents prepared by or for the loss prevention review team are inadmissible and may not be used in a civil or administrative proceeding, except that excerpts may be used to impeach the credibility of a witness under the same circumstances that excerpts of the final report may be used pursuant to subsection (2) of this section.

(6) The restrictions set forth in this section shall not apply in a licensing or disciplinary proceeding arising from an agency's effort to revoke or suspend the license of any licensed professional based in whole or in part upon allegations of wrongdoing in connection with the death, injury, or other incident reviewed by the loss prevention review team.

~~((7))~~ ~~((Within one hundred twenty days after completion of the final report of a loss prevention review team, the agency under review shall issue to the department a response to the report. The response will indicate (a) which of the report's recommendations the agency hopes to implement, (b) whether implementation of those recommendations will require additional funding or legislation, and (c) whatever other information the director may require. This response shall be considered part of the final report and shall be subject to all provisions of this section that apply to the final report, including without limitation the restrictions on admissibility and use in civil or administrative proceedings and the obligation of the director to make the final report public.))~~

~~((8))~~ Nothing in RCW ~~((43.41.370))~~ 43.19.782 or this section is intended to limit the scope of a legislative inquiry into or review of an incident that is the subject of a loss prevention review. ~~((9))~~ ~~((8))~~ Nothing in RCW ~~((43.41.370))~~ 43.19.782 or in this section affects chapter 70.41 RCW and application of that chapter to state-owned or managed hospitals licensed under chapter 70.41 RCW."

Correct the title.

BERNARD DEAN, Chief Clerk

MOTION

Senator Chase moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5173.

Senator Chase spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Chase that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5173.

The motion by Senator Chase carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5173 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5173, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5173, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

ENGROSSED SUBSTITUTE SENATE BILL NO. 5173, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 11, 2017

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 5665 with the following amendment(s): 5665.E AMH ENGR H2446.E

Strike everything after the enacting clause and insert the following:

"Sec. 7. RCW 66.28.270 and 2009 c 373 s 11 are each amended to read as follows:

(1) Nothing in this chapter prohibits the use of checks, credit or debit cards, prepaid accounts, electronic funds transfers, and other similar methods as approved by the board, as cash payments for purposes of this title. Electronic (~~(fund-s)~~) funds transfers must be: ((+)) (a) Voluntary; ((2)) (b) conducted pursuant to a prior written agreement of the parties that includes a provision that the purchase be initiated by an irrevocable invoice or sale order before the time of delivery; ((3)) (c) initiated by the retailer, manufacturer, importer, or distributor no later than the first business day following delivery; and ((4)) (d) completed as promptly as is reasonably practical, and in no event((s)) later than five business days following delivery.

(2) Any person licensed as a distributor of beer, spirits, and/or wine may pass credit card fees on to a purchaser licensed to sell beer, spirits, and/or wine for consumption on the licensed premises, if the decision to use a credit card is entirely voluntary and the credit card fees are set out as a separate line item on the distributor's invoice. Nothing in this section requires the use of a credit card by any licensee. The credit card fee authorized under this section may not exceed the actual fee imposed by the credit card issuer.

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Wilson moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5665.

Senator Wilson spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Wilson that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5665.

The motion by Senator Wilson carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5665 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5665, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5665, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

ENGROSSED SENATE BILL NO. 5665, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 10, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5691 with the following amendment(s): 5691 AMH JUDI H2455.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 8. The legislature finds that an incapacitated person should retain basic rights enjoyed by the public, including the freedom of associating with family and friends. A court or guardian should not remove or restrict the rights of an incapacitated person under a guardianship except when absolutely necessary to protect the incapacitated person. The legislature finds that less restrictive alternatives are preferred to guardianships and limited guardianships when they provide adequate support for an incapacitated person's needs. The legislature also recognizes that less restrictive alternatives are typically less expensive to administer than a guardianship, thereby preserving state resources, court resources, and the incapacitated person's estate. A less restrictive alternative may be in the form of a power of attorney, or a trust, or other legal, financial, or medical directives that allow an incapacitated person to enjoy a greater degree of individual liberty and decision making than for persons under a guardianship.

Sec. 9. RCW 11.88.120 and 2015 c 293 s 1 are each amended to read as follows:

(1)(a) At any time after establishment of a guardianship or appointment of a guardian, the court may, upon the death of the guardian or limited guardian, or, for other good reason, modify or terminate the guardianship or replace the guardian or limited guardian or modify the authority of a guardian or limited guardian. Such action may be taken based on the court's own motion, based on a motion by an attorney for a person or entity, based on a motion of a person or entity representing themselves, or based on a written complaint, as described in this section. The court may grant relief under this section as it deems just and in

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

the best interest of the incapacitated person. For any hearing to modify or terminate a guardianship, the incapacitated person shall be given reasonable notice of the hearing and of the incapacitated person's right to be represented at the hearing by counsel of his or her own choosing.

(b) The court must modify or terminate a guardianship when a less restrictive alternative, such as a power of attorney or a trust, will adequately provide for the needs of the incapacitated person. In any motion to modify or terminate a guardianship with a less restrictive alternative, the court should consider any recent medical reports; whether a condition is reversible; testimony of the incapacitated person; testimony of persons most closely related by blood, marriage, or state registered domestic partnership to the incapacitated person; testimony of persons entitled to notice of special proceedings under RCW 11.92.150; and other needs of the incapacitated person that are not adequately served in a guardianship or limited guardianship that may be better served with a less restrictive alternative. All motions under the provisions of this subsection (1)(b) must be heard within sixty days unless an extension of time is requested by a party or a guardian ad litem within such sixty-day period and granted for good cause shown. An extension granted for good cause should not exceed an additional sixty days from the date of the request of the extension, and the court must set a new hearing date.

(2)(a) An unrepresented person or entity may submit a complaint to the court. Complaints must be addressed to one of the following designees of the court: The clerk of the court having jurisdiction in the guardianship, the court administrator, or the guardianship monitoring program, and must identify the complainant and the incapacitated person who is the subject of the guardianship. The complaint must also provide the complainant's address, the case number (if available), and the address of the incapacitated person (if available). The complaint must state facts to support the claim.

(b) By the next judicial day after receipt of a complaint from an unrepresented person, the court's designee must ensure the original complaint is filed and deliver the complaint to the court.

(c) Within fourteen days of being presented with a complaint, the court must enter an order to do one or more of the following actions:

(i) To show cause, with fourteen days' notice, directing the guardian to appear at a hearing set by the court in order to respond to the complaint;

(ii) To appoint a guardian ad litem to investigate the issues raised by the complaint or to take any emergency action the court deems necessary to protect the incapacitated person until a hearing can be held;

(iii) To dismiss the complaint without scheduling a hearing, if it appears to the court that the complaint: Is without merit on its face; is filed in other than good faith; is filed for an improper purpose; regards issues that have already been adjudicated; or is frivolous. In making a determination, the court may review the matter and consider previous behavior of the complainant that is documented in the guardianship record;

(iv) To direct the guardian to provide, in not less than fourteen days, a written report to the court on the issues raised in the complaint;

(v) To defer consideration of the complaint until the next regularly scheduled hearing in the guardianship, if the date of that hearing is within the next three months, provided that there is no indication that the incapacitated person will suffer physical, emotional, financial, or other harm as a result of the court's deferral of consideration;

(vi) To order other action, in the court's discretion, in addition to doing one or more of the actions set out in this subsection.

(d) If after consideration of the complaint, the court believes that the complaint is made without justification or for reason to harass or delay or with malice or other bad faith, the court has the power to levy necessary sanctions, including but not limited to the imposition of reasonable attorney fees, costs, fees, striking pleadings, or other appropriate relief.

(3) The court may order persons who have been removed as guardians to deliver any property or records belonging to the incapacitated person in accordance with the court's order. Similarly, when guardians have died or been removed and property or records of an incapacitated person are being held by any other person, the court may order that person to deliver it in accordance with the court's order. Disobedience of an order to deliver (~~shall be~~) is punishable as contempt of court.

(4) The administrative office of the courts must develop and prepare⁽⁷⁾, in consultation with interested persons, a model form for the complaint described in subsection (2)(a) of this section and a model form for the order that must be issued by the court under subsection (2)(c) of this section.

(5) The board may send a grievance it has received regarding an active guardian case to the court's designee with a request that the court review the grievance and take any action the court deems necessary. This type of request from the board must be treated as a complaint under this section and the person who sent the complaint must be treated as the complainant. The court must direct the clerk to transmit a copy of its order to the board. The board must consider the court order when taking any further action and note the court order in any final determination.

(6) In any court action under this section that involves a professional guardian, the court must direct the clerk of the court to send a copy of the order entered under this section to the board.

(7) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Board" means the certified professional guardianship board.

(b) "Complaint" means a written submission by an unrepresented person or entity, who is referred to as the complainant."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Bailey moved that the Senate concur in the House amendment(s) to Senate Bill No. 5691.

Senator Bailey spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Bailey that the Senate concur in the House amendment(s) to Senate Bill No. 5691.

The motion by Senator Bailey carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5691 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5691, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5691, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Erickson, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo,

Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SENATE BILL NO. 5691, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 10, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5705 with the following amendment(s): 5705-S AMH HCW H2477.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 10. The state finds that the department should not reduce the number of license violations found by field inspectors for the purpose of allowing licensed behavioral health service providers to avoid liability in a manner that permits the violating service provider to continue to provide care at the risk of public safety. The state also recognizes the need to prohibit fraudulent transfers of licenses between licensed behavioral health service providers found in violation of the terms of their license agreement and their family members.

Sec. 11. RCW 71.24.037 and 2016 sp.s. c 29 s 505 are each amended to read as follows:

(1) The secretary shall by rule establish state minimum standards for licensed behavioral health service providers and services, whether those service providers and services are licensed to provide solely mental health services, substance use disorder treatment services, or services to persons with co-occurring disorders.

(2) Minimum standards for licensed behavioral health service providers shall, at a minimum, establish: Qualifications for staff providing services directly to persons with mental disorders, substance use disorders, or both, the intended result of each service, and the rights and responsibilities of persons receiving behavioral health services pursuant to this chapter. The secretary shall provide for deeming of licensed behavioral health service providers as meeting state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department.

(3) Minimum standards for community support services and resource management services shall include at least qualifications for resource management services, client tracking systems, and the transfer of patient information between behavioral health service providers.

(4) The department may suspend, revoke, limit, restrict, or modify an approval, or refuse to grant approval, for failure to meet the provisions of this chapter, or the standards adopted under this chapter. RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(5) No licensed behavioral health service provider may advertise or represent itself as a licensed behavioral health service provider if approval has not been granted, has been denied, suspended, revoked, or canceled.

(6) Licensure as a behavioral health service provider is effective for one calendar year from the date of issuance of the license. The license must specify the types of services provided by the behavioral health service provider that meet the standards adopted under this chapter. Renewal of a license must be made in

accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

(7) Licensure as a licensed behavioral health service provider must specify the types of services provided that meet the standards adopted under this chapter. Renewal of a license must be made in accordance with this section for initial approval and in accordance with the standards set forth in rules adopted by the secretary.

(8) Licensed behavioral health service providers may not provide types of services for which the licensed behavioral health service provider has not been certified. Licensed behavioral health service providers may provide services for which approval has been sought and is pending, if approval for the services has not been previously revoked or denied.

(9) The department periodically shall inspect licensed behavioral health service providers at reasonable times and in a reasonable manner.

(10) Upon petition of the department and after a hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the department authorizing him or her to enter and inspect at reasonable times, and examine the books and accounts of, any licensed behavioral health service provider refusing to consent to inspection or examination by the department or which the department has reasonable cause to believe is operating in violation of this chapter.

(11) The department shall maintain and periodically publish a current list of licensed behavioral health service providers.

(12) Each licensed behavioral health service provider shall file with the department upon request, data, statistics, schedules, and information the department reasonably requires. A licensed behavioral health service provider that without good cause fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent returns thereof, may have its license revoked or suspended.

(13) The department shall use the data provided in subsection (12) of this section to evaluate each program that admits children to inpatient substance use disorder treatment upon application of their parents. The evaluation must be done at least once every twelve months. In addition, the department shall randomly select and review the information on individual children who are admitted on application of the child's parent for the purpose of determining whether the child was appropriately placed into substance use disorder treatment based on an objective evaluation of the child's condition and the outcome of the child's treatment.

(14) Any settlement agreement entered into between the department and licensed behavioral health service providers to resolve administrative complaints, license violations, license suspensions, or license revocations may not reduce the number of violations reported by the department unless the department concludes, based on evidence gathered by inspectors, that the licensed behavioral health service provider did not commit one or more of the violations.

(15) In cases in which a behavioral health service provider that is in violation of licensing standards attempts to transfer or sell the behavioral health service provider to a family member, the transfer or sale may only be made for the purpose of remedying license violations and achieving full compliance with the terms of the license. Transfers or sales to family members are prohibited in cases in which the purpose of the transfer or sale is to avoid liability or reset the number of license violations found before the transfer or sale. If the department finds that the owner intends to transfer or sell, or has completed the transfer or sale of, ownership of the behavioral health service provider to a family member solely for the purpose of resetting the number of violations found before the transfer or sale, the department may not renew the

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

behavioral health service provider's license or issue a new license to the behavioral health service provider."
Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Becker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5705.

Senators Becker and Darneille spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Becker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5705.

The motion by Senator Becker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5705 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5705, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5705, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SUBSTITUTE SENATE BILL NO. 5705, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 10, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5713 with the following amendment(s): 5713-S AMH HE H2516.3

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 12. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Department" means the department of commerce.
- (2) "Eligible applicant" means any government entity or any nongovernment entity, association, or organization that is not a private vocational school, that:
 - (a) Offers, or plans to offer, a skilled worker awareness program; and
 - (b) Has partnered with industry to either offer or fund a skilled worker awareness program.
- (3) "Grant program" means the skilled worker outreach, recruitment, and career awareness grant program.

(4) "Grant review committee" means the skilled worker outreach, recruitment, and career awareness grant program review committee created in section 5 of this act.

(5) "Matching grant" means a grant funded by the state to match funding provided by an eligible applicant to support efforts to increase the state's skilled workforce.

(6) "Skilled worker awareness program" means a program designed to increase awareness of, and enrollment in, accredited educational, occupational, state-approved preapprenticeship, apprenticeship, and similar training programs that: (a) Train individuals to perform skills needed in the workforce; and (b) award industry or state-recognized certificates, credentials, associate degrees, professional licenses, or similar evidence of achievement but not including bachelor's or higher degrees.

NEW SECTION. Sec. 13. (1) Subject to availability of amounts appropriated for this specific purpose, the skilled worker outreach, recruitment, and career awareness grant program is created. The purpose of the grant program is to increase the state's skilled workforce by raising awareness of the state's worker training programs.

(2)(a) Under the grant program, the department must award matching grants to eligible applicants that will engage in outreach and recruiting efforts to increase enrollment in and completion of worker training programs.

(b) Recipients of the grant must provide matching cash funding. The recipient's match must be two dollars for each one dollar of the grant. The recipient's match may not be in the form of in-kind contributions.

NEW SECTION. Sec. 14. (1) The department shall administer the grant program and establish a process for accepting grant applications, including application guidelines and deadlines.

(2) By January 1, 2018, and annually no later than January 1st thereafter, the department shall start accepting grant applications.

NEW SECTION. Sec. 15. (1) To be considered for a matching grant, an eligible applicant must include, at a minimum, the following information in its application:

- (a) A description of how the matching grant will be used to provide outreach, education, and recruitment for training programs;
- (b) A description of the training programs the applicant plans to promote, the particular skills taught by that training program, and the number of years the training program has been in operation;
- (c) Past, current, and projected enrollment in the training program the applicant plans to promote and the estimated increases in enrollment, if the training program has been in existence;
- (d) If the applicant is promoting an existing training program, a comparison of the number of participants who enroll in the training program and the number of participants who complete the program over a five-year period, if available;
- (e) Specific industry needs or gaps in the workforce that the training program will or does address;
- (f) A description of intended or existing partnerships with industry members, including those where training program participants will have the opportunity to earn income or credit hours;
- (g) Costs or the anticipated costs to implement the skilled worker awareness program;
- (h) Resources that the eligible applicant will commit in matching dollars and, if the applicant already has a skilled worker awareness program, existing resources that the applicant has invested in recruiting, outreach, and funding of its skilled worker awareness program; and
- (i) Any other information the department requires.

(2) Upon receipt of an application that satisfies the requirements in this section, the department must send the application to the grant review committee for its consideration.

NEW SECTION. Sec. 16. (1) The department must establish a grant review committee to review grant applications and make recommendations on who should receive a matching grant and the amount. The grant review committee must consist of eleven members with representatives from the following:

- (a) The department of labor and industries;
- (b) The employment security department;
- (c) The department of enterprise services;
- (d) The workforce training and education coordinating board;
- (e) The state board for community and technical colleges;
- (f) Two representatives from business;
- (g) Two representatives from labor; and
- (h) Two representatives from the Washington apprenticeship and training council.

(2) The grant review committee shall designate a chair to oversee the committee's meetings.

(3) The grant review committee shall establish criteria for ranking eligible applicants for matching grant awards. The grant review committee shall consider and rank eligible applicants based on which applicants currently are able to or have the best potential to:

- (a) Reach a broad diverse audience, including populations with barriers as identified in the state's comprehensive workforce training and education plan, through their recruitment and outreach efforts;
- (b) Collaborate with and utilize centers of excellence within the community and technical college system;
- (c) Significantly increase enrollment and completion of the training program the applicant plans to promote;
- (d) Fill existing needs for skilled workers in the market; and
- (e) Demonstrate the following, prioritized in the following order:
 - (i) That the eligible applicant will provide monetary contributions from its own resources; and
 - (ii) That the eligible applicant has secured:
 - (A) An industry partner; or
 - (B) Monetary contributions from an industry partner, conditional job placement guarantees, or articulation agreements.

(4) The grant review committee shall submit its recommendations to the director of the department, who shall determine to whom and in what amounts to award matching grants. Matching grants must be awarded no later than April 1st each year following the application submittal deadline.

NEW SECTION. Sec. 17. Grant recipients may not use matching grants for tuition subsidies or to reduce tuition for any training program.

NEW SECTION. Sec. 18. (1) Each eligible applicant that receives a matching grant shall submit a quarterly report and an annual report to the grant review committee on the outcomes achieved. The grant recipient shall include in the report at least the following measurable outcomes:

- (a) The manner in which the grant recipient has used the matching grant for outreach and recruitment;
- (b) The number of participants enrolled in and the number of participants who completed the training program being promoted, both before the matching grant was awarded and since the matching grant was received;
- (c) The number of participants who obtained employment in an industry for which the participant was trained under the training program promoted by the recipient, including information about the industry in which the participants are employed;
- (d) The number of participants recruited; and
- (e) Any other information the grant review committee determines appropriate.

(2) By December 1, 2019, and by each December 1st thereafter, the grant review committee shall submit an annual report to the governor and appropriate committees of the legislature in accordance with the reporting requirements in RCW 43.01.036. The report must include:

- (a) The number of matching grants awarded in the prior year, including the amount, recipient, and duration of each matching grant;
- (b) The number of individuals who enrolled in and completed training programs promoted by each grant recipient;
- (c) The number of individuals who obtained employment in a position that uses the skills for which they were trained through a training program promoted by a grant recipient; and
- (d) Other information obtained from grant recipients' reports under subsection (1) of this section.

NEW SECTION. Sec. 19. To assist with implementation of the grant program, the department, in coordination with the workforce training and education coordinating board and the workforce training customer advisory committee, shall coordinate skilled worker awareness programs throughout the state. The coordination must include:

- (1) Partnering with industry associations, labor-management programs, and businesses to assess and determine their workforce needs; and
- (2) Coordinating with training program providers on skill sets being developed and the quality of students being trained.

NEW SECTION. Sec. 20. The skilled worker outreach, recruitment, and career awareness grant program account is created in the custody of the state treasurer. The department shall deposit in the account all money received for the program. The account shall be self-sustaining and consist of funds appropriated by the legislature for the skilled worker outreach, recruitment, and career awareness grant program and private contributions to the program. Expenditures from the account shall only be used for matching grants provided to grant recipients. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 21. This chapter expires July 1, 2022.

NEW SECTION. Sec. 22. Sections 1 through 10 of this act constitute a new chapter in Title 43 RCW."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Wilson moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5713.

Senators Wilson and Palumbo spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Wilson that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5713.

The motion by Senator Wilson carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5713 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5713, as amended by the House.

ROLL CALL

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5713, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senators Chase and Hasegawa

SUBSTITUTE SENATE BILL NO. 5713, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 11, 2017

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5285 with the following amendment(s): 5285-S2 AMH HE H2470.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 23. (1) The legislature finds that the agriculture, environment, outdoor recreation, and natural resources economic sectors can offer rewarding career paths for students who are interested in the natural world and are excited by the idea of having a career with outdoor opportunities. Not only are these careers currently available to students, but the United States department of agriculture predicts, in their recent report on employment opportunities for college graduates in food, agriculture, renewable natural resources, outdoor recreation, and the environment, that employment opportunities in these fields are expected to increase.

(2) The legislature further finds that thousands of Washington students do not have access to the types of education that are necessary to guide them down the pathways leading to marketable job skills and productive careers in the agriculture, environment, outdoor recreation, and natural resources economic sectors. Long-term career success in these fields require the ability to identify, apply, and integrate concepts from science, technology, engineering, and mathematics as they specifically relate to the agriculture, environment, outdoor recreation, and natural resources economic sectors and the sectors' related careers.

(3) The legislature further finds that students will have the information they need to consider careers in the agriculture, environment, outdoor recreation, and natural resources economic sectors if educators are provided with actual applications of how to put integrated learning into action and facilitating experiences that allow students to get outdoors and learn in real-world and community-connected environments.

(4) The legislature further finds that the economic opportunities available for students interested in agriculture, natural resources, outdoor recreation, or the environment can be more readily unlocked if educators are provided with information on worker demand and qualifications so that they are equipped to assist students to access the economic opportunity and help make connections between education and outdoor careers. The information needed by educators to make these connections can

be accomplished through a statewide workforce study of potential jobs in these fields.

NEW SECTION. Sec. 24. (1)(a) Subject to the availability of amounts appropriated for this specific purpose, the workforce training and education coordinating board shall conduct a workforce assessment for the agriculture, natural resources, outdoor recreation, and environment sectors. The purpose of the study is to assess the available data on current and projected employment levels and hiring demand for skilled mid-level workers in the agriculture, environment, outdoor recreation, and natural resources economic sectors in the state. Ultimately, this information is being collected so that educators have better information available as they develop programs for informing students about potential careers.

(b) The study must use a broad definition for the mid-level skilled occupations included in the study and identify up to five regions of the state based on the specific workforce characteristics of agriculture, natural resources, outdoor recreation, and environment employers.

(2) The study required by this section must, at a minimum:

(a) Include assessment of:

(i) Data from the employment security department on the current and projected levels of employment and net job vacancies;

(ii) Data used by workforce development councils in identifying demand for workers in their areas;

(iii) Data from the United States census bureau; and

(iv) Data from the United States census bureau's longitudinal employer-household dynamics dataset.

(b) Identify and interview a sample of major employers from the agriculture, environment, outdoor recreation, and natural resources economic sectors in each region to assess employers' perspective and expectations on employment and hiring of skilled mid-level workers in their industry and area. The study must also include an assessment of food and fiber processing jobs in the state.

(3) In conducting any study pursuant to this section, the workforce training and education coordinating board must convene and consult with a steering committee to define the scope of mid-level skilled occupations considered, validate designation of specific regions to be analyzed, and assist in the design of information collection. The steering committee must include representatives of statewide business organizations and a delegate of the state board for community and technical colleges who will be staff.

(4) In implementing this section, the workforce training and education coordinating board may complete the work directly or, at its discretion, contract the assignment, or portions of the assignment, to a third party or parties chosen by the workforce training and education coordinating board. However, the final delivered product must be reported under the workforce training and education coordinating board.

(5) The report must include recommendations on current sources that provide the most representative and useful information for educators and counselors, further steps to improve the specificity, timeliness, and quality of information available on skilled workforce needs and issues in the areas of the state, and steps necessary to extend this work both into entry level and advanced level occupations, and into identification of specific skills that are key to enabling workers to be productive in this sector.

(6) Consistent with RCW 43.01.036, the study required by this section must be completed and the results reported to the legislature by October 15, 2018.

(7) This section expires June 30, 2019."

Correct the title.

BERNARD DEAN, Chief Clerk

MOTION

Senator Wilson moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5285.

Senator Wilson spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Wilson that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5285.

The motion by Senator Wilson carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5285 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5285, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5285, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SECOND SUBSTITUTE SENATE BILL NO. 5285, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 6, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5402 with the following amendment(s): 5402-S AMH TR H2395.1

Strike everything after the enacting clause and insert the following:

NEW SECTION. **Sec. 25.** The legislature finds that Washington state is the nation's number one "Bike Friendly State." However, people who bike encounter road safety dangers that result in severe injury and death. Bicycle ridership has significantly increased over the last ten years, and the number of injuries and fatalities are also on the rise, despite the five percent annual reduction goal. The Cooper Jones act of 1998 laid the groundwork to begin a focus on bicycle safety and education. It is the intent of the legislature that the Cooper Jones bicycle safety advisory council continue that work with a focus on a review of best practices for the reduction and eventual elimination of bicycle-related injuries and fatalities in contribution to Washington state's adoption of Target Zero.

NEW SECTION. **Sec. 26.** A new section is added to chapter 43.59 RCW to read as follows:

(1) Within amounts appropriated to the traffic safety commission, the commission must convene the Cooper Jones bicyclist safety

advisory council comprised of stakeholders who have a unique interest or expertise in bicyclist and road safety.

(2) The purpose of the council is to review and analyze data related to bicyclist fatalities and serious injuries to identify points at which the transportation system can be improved and to identify patterns in bicyclist fatalities and serious injuries.

(3)(a) The council may include, but is not limited to:

(i) A representative from the commission;

(ii) An emergency medical technician from the county in which the most bicyclist deaths have occurred;

(iii) A representative from the Washington association of sheriffs and police chiefs;

(iv) Multiple members of law enforcement who have investigated bicyclist fatalities;

(v) A traffic engineer;

(vi) A representative from the department of transportation;

(vii) A representative of cities, and up to two stakeholders, chosen by the council, who represent municipalities in which at least one bicyclist fatality has occurred in the previous three years;

(viii) A representative from a bicyclist advocacy group;

(ix) A transportation planner with a focus on multimodal planning;

(x) A public health official, researcher, or epidemiologist; and

(xi) A member of an academic transportation research organization, such as the transportation research board.

(b) The commission may invite other representatives of stakeholder groups to participate in the council as deemed appropriate by the commission. Additionally, the commission may invite a victim or family member of a victim to participate in the council.

(4) The council must meet at least quarterly. By December 31st of each year, the council must issue an annual report detailing any findings and recommendations to the governor and the transportation committees of the legislature. The commission must provide the annual report electronically to all municipal governments and state agencies that participated in the council during that calendar year. Additionally, the council must report any budgetary or fiscal recommendations to the office of financial management and the legislature by August 1, 2018.

(5) As part of the review of bicyclist fatalities and serious injuries that occur in Washington, the council may review any available information, including accident information maintained in existing databases; statutes, rules, policies, or ordinances governing bicyclists and traffic related to the incidents; and any other relevant information. The council may make recommendations regarding changes in statutes, ordinances, rules, and policies that could improve bicyclist safety. Additionally, the council may make recommendations on how to improve traffic fatality and serious injury data quality.

(6)(a) Documents prepared by or for the council are inadmissible and may not be used in a civil or administrative proceeding, except that any document that exists before its use or consideration in a review by the council, or that is created independently of such review, does not become inadmissible merely because it is reviewed or used by the council. For confidential information, such as personally identifiable information and medical records, which are obtained by the council, neither the commission nor the council may publicly disclose such confidential information. No person who was in attendance at a meeting of the council or who participated in the creation, retention, collection, or maintenance of information or documents specifically for the commission or the council shall be permitted to testify in any civil action as to the content of such proceedings or of the documents and information prepared specifically as part of the activities of the council. However,

recommendations from the council and the commission generally may be disclosed without personal identifiers.

(b) The council may review, only to the extent otherwise permitted by law or court rule when determined to be relevant and necessary: Any law enforcement incident documentation, such as incident reports, dispatch records, and victim, witness, and suspect statements; any supplemental reports, probable cause statements, and 911 call taker's reports; and any other information determined to be relevant to the review. The commission and the council must maintain the confidentiality of such information to the extent required by any applicable law.

(7) If acting in good faith, without malice, and within the parameters of and protocols established under this chapter, representatives of the commission and the council are immune from civil liability for an activity related to reviews of particular fatalities and serious injuries.

(8) This section must not be construed to provide a private civil cause of action.

(9)(a) The council may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the council and spend the gifts, grants, or endowments from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560.

(b) Subject to the appropriation of funds for this specific purpose, the council may provide grants targeted at improving bicyclist safety in accordance with recommendations made by the council.

(10) By December 1, 2018, the council must report to the transportation committees of the legislature on the strategies that have been deployed to improve bicyclist safety by the council and make a recommendation as to whether the council should be continued and if there are any improvements the legislature can make to improve the council.

(11) For purposes of this section:

(a) "Bicyclist fatality" means any death of a bicyclist resulting from a collision with a vehicle, whether on a roadway, at an intersection, along an adjacent sidewalk, or on a path that is contiguous with a roadway.

(b) "Council" means the Cooper Jones bicyclist safety advisory council.

(c) "Serious injury" means any injury other than a fatal injury that prevents the injured person from walking, driving, or normally continuing the activities the person was capable of performing before the injury occurred.

(12) This section expires June 30, 2019."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5402.

Senator Liias spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5402.

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5402 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5402, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5402, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senator Short

SUBSTITUTE SENATE BILL NO. 5402, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 10, 2017

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5470 with the following amendment(s): 5470-S.E AMH ENVI H2465.2

Strike everything after the enacting clause and insert the following:

"Sec. 27. RCW 78.60.010 and 1974 ex.s. c 43 s 1 are each amended to read as follows:

The public has a direct interest in the safe, orderly, and nearly pollution-free development of the geothermal resources of the state, as ~~((hereinafter in RCW 79.76.030(1)))~~ defined in RCW 78.60.030. The legislature hereby declares that it is in the best interests of the state to further the development of geothermal resources for the benefit of all of the citizens of the state while at the same time fully providing for the protection of the environment. The development of geothermal resources shall be so conducted as to protect the rights of landowners, other owners of interests therein, and the general public. In providing for such development, it is the purpose of this chapter to provide for the orderly exploration, safe drilling, production, and proper abandonment of geothermal resources in the state of Washington.

Sec. 28. RCW 78.60.070 and 2007 c 338 s 1 are each amended to read as follows:

(1) Any person proposing to drill a well or redrill an abandoned well for geothermal resources shall file with the department a written application for a permit to commence such drilling or redrilling on a form prescribed by the department accompanied by a permit fee of two hundred dollars. The department shall forward a duplicate copy to the department of ecology within ten days of filing.

(2) Upon receipt of a proper application relating to drilling or redrilling the department shall set a date, time, and place for a public hearing on the application ~~(, which hearing shall be in the county in which the drilling or redrilling is proposed to be made, and shall instruct the applicant to publish notices of such application and hearing by such means and within such time as the department shall prescribe. The department shall require that the notice so prescribed shall be published twice in a newspaper of general circulation within the county in which the drilling or~~

~~redrilling is proposed to be made and in such other appropriate information media as the department may direct)). The public hearing on the drilling application shall be in the county in which the drilling or redrilling is proposed to be made.~~

(3) Any person proposing to drill a core hole for the purpose of gathering geothermal data, including but not restricted to heat flow, temperature gradients, and rock conductivity, shall be required to obtain a single permit ~~((for each)) covering all~~ core holes according to subsection (1) of this section, including a single permit fee ~~((for each core hole, but no notice need be published, and no hearing need be held. Such core holes that penetrate more than seven hundred and fifty feet into bedrock shall be deemed geothermal test wells and subject to the payment of a permit fee and to the requirement in subsection (2) of this section for public notices and hearing. In the event geothermal energy is discovered in a core hole, the hole shall be deemed a geothermal well and subject to the permit fee, notices, and hearing)).~~ Such core holes as described by this subsection are not required to be the subject of a public hearing but are subject to all other provisions of this chapter, including a bond or other security as specified in RCW 78.60.130.

(4) All moneys paid to the department under this section shall be deposited with the state treasurer for credit to the general fund.

Sec. 29. RCW 78.60.120 and 1974 ex.s. c 43 s 12 are each amended to read as follows:

(1) Before any operation to plug and abandon or suspend the operation of any well is commenced, the owner or operator shall submit in writing a notification of abandonment or suspension of operations to the department for approval. No operation to abandon or suspend the operation of a well shall commence without approval by the department. The department shall respond to such notification in writing within ten working days following receipt of the notification.

(2) Failure to abandon or suspend operations in accordance with the method approved by the department shall constitute a violation of this chapter, and the department shall take appropriate action under the provisions of RCW ~~((79.76.270))~~ 78.60.270." Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Brown moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5470.

Senators Brown and Carlyle spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Brown that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5470.

The motion by Senator Brown carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5470 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5470, as amended by the House.

MOTION

On motion of Senator Saldaña, Senator Liias was excused.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5470, as amended by the House, and

the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Excused: Senator Liias

ENGROSSED SUBSTITUTE SENATE BILL NO. 5470, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 11, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5581 with the following amendment(s): 5581 AMH SANT H2483.4

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 30. This chapter is intended to provide authority for two or more public benefit hospital entities to participate in a joint self-insurance program covering property or liability risks. This chapter provides public benefit hospital entities with the exclusive source of authority to jointly self-insure property and liability risks, jointly purchase insurance or reinsurance, and to contract for risk management, claims, and administrative services with other public benefit hospital entities, except as otherwise provided in this chapter. This chapter must be liberally construed to grant public benefit hospital entities maximum flexibility in jointly self-insuring to the extent the self-insurance programs are operated in a safe and sound manner. This chapter is intended to require prior approval for the establishment of every joint self-insurance program. In addition, this chapter is intended to require every joint self-insurance program for public benefit hospital entities established under this chapter to notify the state of the existence of the program and to comply with the regulatory and statutory standards governing the management and operation of the programs as provided in this chapter. This chapter is not intended to authorize or regulate self-insurance of unemployment compensation under chapter 50.44 RCW or industrial insurance under chapter 51.14 RCW.

"NEW SECTION. Sec. 31. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Hospital services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services provided in a hospital setting.

(2) "Property and liability risks" include the risk of property damage or loss sustained by a public benefit hospital entity and the risk of claims arising from the tortious or negligent conduct or any error or omission of the entity, its officers, employees, agents, or volunteers as a result of which a claim may be made against the entity.

(3) "Public benefit hospital entity" means any of the following:

(a) A public hospital district organized under the laws of this state or another state and any agency or instrumentality of a public hospital district including, but not limited to, a legal entity created to conduct a joint self-insurance program for public hospital

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

districts that is operating in accordance with chapter 48.62 RCW; or

(b) A nonprofit corporation, whether organized under the laws of this state or another state, that meets the following requirements:

(i) The nonprofit corporation operates one or more hospitals each of which is licensed for three hundred sixty or fewer beds by the department of health pursuant to chapter 70.41 RCW; and

(ii) The nonprofit corporation is engaged in providing hospital services.

(4) "Self-insurance" means a formal program of advance funding and management of entity financial exposure to a risk of loss that is not transferred through the purchase of an insurance policy or contract.

(5) "State risk manager" means the risk manager of the office of risk management within the department of enterprise services.

NEW SECTION. Sec. 32. (1) The governing body of a public benefit hospital entity may join or form a self-insurance program together with one or more other public benefit hospital entities, and may jointly purchase insurance or reinsurance with one or more other public benefit hospital entities for property and liability risks only as permitted under this chapter. Public benefit hospital entities may contract for or hire personnel to provide risk management, claims, and administrative services in accordance with this chapter.

(2) The agreement to form a joint self-insurance program may include the organization of a separate legal or administrative entity with powers delegated to the entity.

(3) If provided for in the organizational documents, a joint self-insurance program may, in conformance with this chapter:

(a) Contract or otherwise provide for risk management and loss control services;

(b) Contract or otherwise provide legal counsel for the defense of claims and other legal services;

(c) Consult with the state insurance commissioner and the state risk manager;

(d) Jointly purchase insurance and reinsurance coverage in a form and amount as provided for in the organizational documents;

(e) Obligate the program's participants to pledge revenues or contribute money to secure the obligations or pay the expenses of the program, including the establishment of a reserve or fund for coverage; and

(f) Possess any other powers and perform all other functions reasonably necessary to carry out the purposes of this chapter.

(4) Every joint self-insurance program governed by this chapter must appoint the state risk manager as its attorney to receive service of, and upon whom must be served, all legal process issued against the program in this state upon causes of action arising in this state.

(a) Service upon the state risk manager as attorney constitutes service upon the program. Service upon joint self-insurance programs subject to this chapter may only occur by service upon the state risk manager. At the time of service, the plaintiff shall pay to the state risk manager a fee to be set by the state risk manager, taxable as costs in the action.

(b) With the initial filing for approval with the state risk manager, each joint self-insurance program must designate by name and address the person to whom the state risk manager must forward legal process that is served upon him or her. The joint self-insurance program may change this person by filing a new designation.

(c) The appointment of the state risk manager as attorney is irrevocable, binds any successor in interest or to the assets or liabilities of the joint self-insurance program, and remains in effect as long as there is in force in this state any contract made

by the joint self-insurance program or liabilities or duties arising from the contract.

(d) The state risk manager shall keep a record of the day and hour of service upon him or her of all legal process. A copy of the process, by registered mail with return receipt requested, must be sent by the state risk manager to the person designated to receive legal process by the joint self-insurance program in its most recent designation filed with the state risk manager. Proceedings must not commence against the joint self-insurance program, and the program must not be required to appear, plead, or answer, until the expiration of forty days after the date of service upon the state risk manager.

NEW SECTION. Sec. 33. This chapter does not apply to a public benefit hospital entity that:

(1) Individually self-insures for property and liability risks; or

(2) Participates in a risk pooling arrangement, including a risk retention group or a risk purchasing group, regulated under chapter 48.92 RCW, is a captive insurer authorized in its state of domicile, or participates in a local government risk pool formed under chapter 48.62 RCW.

NEW SECTION. Sec. 34. The state risk manager shall adopt rules governing the management and operation of joint self-insurance programs for public benefit hospital entities that cover property or liability risks. All rules must be appropriate for the type of program and class of risk covered. The state risk manager's rules must include:

(1) Standards for the management, operation, and solvency of joint self-insurance programs, including the necessity and frequency of actuarial analyses and claims audits;

(2) Standards for claims management procedures;

(3) Standards for contracts between joint self-insurance programs and private businesses, including standards for contracts between third-party administrators and programs; and

(4) Standards that preclude public hospital districts or other public entities participating in the joint self-insurance program from subsidizing, regardless of the form of subsidy, public benefit hospital entities that are not public hospital districts or public entities. These standards do not apply to the consideration attributable to the ownership interest of a public hospital district or other public entity in a separate legal or administrative entity organized with respect to the program.

NEW SECTION. Sec. 35. Before the establishment of a joint self-insurance program covering property or liability risks by public benefit hospital entities, the entities must obtain the approval of the state risk manager. The entities proposing the creation of a joint self-insurance program requiring prior approval shall submit a plan of management and operation to the state risk manager that provides at least the following information:

(1) The risk or risks to be covered, including any coverage definitions, terms, conditions, and limitations;

(2) The amount and method of funding the covered risks, including the initial capital and proposed rates and projected premiums;

(3) The proposed claim reserving practices;

(4) The proposed purchase and maintenance of insurance or reinsurance in excess of the amounts retained by the joint self-insurance program;

(5) The legal form of the program including, but not limited to, any articles of incorporation, bylaws, charter, or trust agreement or other agreement among the participating entities;

(6) The agreements with participants in the program defining the responsibilities and benefits of each participant and management;

(7) The proposed accounting, depositing, and investment practices of the program;

- (8) The proposed time when actuarial analysis will be first conducted and the frequency of future actuarial analysis;
- (9) A designation of the individual to whom service of process must be forwarded by the state risk manager on behalf of the program;
- (10) All contracts between the program and private persons providing risk management, claims, or other administrative services;
- (11) A professional analysis of the feasibility of the creation and maintenance of the program;
- (12) A legal determination of the potential federal and state tax liabilities of the program; and
- (13) Any other information required by rule of the state risk manager that is necessary to determine the probable financial and management success of the program or that is necessary to determine compliance with this chapter.

NEW SECTION. Sec. 36. A public benefit hospital entity may participate in a joint self-insurance program covering property or liability risks with similar public benefit hospital entities from other states if the program satisfies the following requirements:

- (1) An ownership interest in the program is limited to some or all of the public benefit hospital entities of this state and public benefit hospital entities of other states that are provided insurance by the program;
- (2) The participating public benefit hospital entities of this state and other states shall elect a board of directors to manage the program, a majority of whom must be affiliated with one or more of the participating public benefit hospital entities;
- (3) The program must provide coverage through the delivery to each participating public benefit hospital entity of one or more written policies affecting insurance of covered risks;
- (4) The program must be financed, including the payment of premiums and the contribution of initial capital, in accordance with the plan of management and operation submitted to the state risk manager in accordance with this chapter;
- (5) The financial statements of the program must be audited annually by the certified public accountants for the program, and these audited financial statements must be delivered to the state risk manager not more than one hundred twenty days after the end of each fiscal year of the program;
- (6) The investments of the program must be initiated only with financial institutions or broker-dealers, or both, doing business in those states in which participating public benefit hospital entities are located, and these investments must be audited annually by the certified public accountants for the program;
- (7) The treasurer of a multistate joint self-insurance program must be designated by resolution of the program and the treasurer must be located in the state of one of the participating entities;
- (8) The participating entities may have no contingent liabilities for covered claims, other than liabilities for unpaid premiums, retrospective premiums, or assessments, if assets of the program are insufficient to cover the program's liabilities; and
- (9) The program must obtain approval from the state risk manager in accordance with this chapter and must remain in compliance with this chapter, except if provided otherwise under this section.

NEW SECTION. Sec. 37. (1) Within one hundred twenty days of receipt of a plan of management and operation, the state risk manager shall either approve or disapprove of the formation of the joint self-insurance program after reviewing the plan to determine whether the proposed program complies with this chapter and all rules adopted in accordance with this chapter.

(2) If the state risk manager denies a request for approval, the state risk manager shall specify in detail the reasons for denial and the manner in which the program fails to meet the requirements of this chapter or any rules adopted in accordance with this chapter.

(3) If the state risk manager determines that a joint self-insurance program covering property or liability risks is in violation of this chapter or is operating in an unsafe financial condition, the state risk manager may issue and serve upon the program an order to cease and desist from the violation or practice.

(a) The state risk manager shall deliver the order to the appropriate entity or entities directly or mail it to the appropriate entity or entities by certified mail with return receipt requested.

(b) If the program violates the order or has not taken steps to comply with the order after the expiration of twenty days after the cease and desist order has been received by the program, the program is deemed to be operating in violation of this chapter, and the state risk manager shall notify the attorney general of the violation.

(c) After hearing or with the consent of a program governed under this chapter and in addition to or in lieu of a continuation of the cease and desist order, the state risk manager may levy a fine upon the program in an amount not less than three hundred dollars and not more than ten thousand dollars. The order levying the fine must specify the period within which the fine must be fully paid. The period within which the fine must be paid must not be less than fifteen and no more than thirty days from the date of the order. Upon failure to pay the fine when due, the state risk manager shall request the attorney general to bring a civil action on the state risk manager's behalf to collect the fine. The state risk manager shall pay any fine collected to the state treasurer for the account of the general fund.

(4) Each joint self-insurance program approved by the state risk manager shall annually file a report with the state risk manager providing:

- (a) Details of any changes in the articles of incorporation, bylaws, charter, or trust agreement or other agreement among the participating public benefit hospital entities;
- (b) Copies of all the insurance coverage documents;
- (c) A description of the program structure, including participants' retention, program retention, and excess insurance limits and attachment point;
- (d) An actuarial analysis;
- (e) A list of contractors and service providers;
- (f) The financial and loss experience of the program; and
- (g) Other information as required by rule of the state risk manager.

(5) A joint self-insurance program requiring the state risk manager's approval may not engage in an act or practice that in any respect significantly differs from the management and operation plan that formed the basis for the state risk manager's approval of the program unless the program first notifies the state risk manager in writing and obtains the state risk manager's approval. The state risk manager shall approve or disapprove the proposed change within sixty days of receipt of the notice. If the state risk manager denies a requested change, the state risk manager shall specify in detail the reasons for the denial and the manner in which the program would fail to meet the requirements of this chapter or any rules adopted in accordance with this chapter.

NEW SECTION. Sec. 38. (1) A joint self-insurance program may by resolution of the program designate a person having experience with investments or financial matters as treasurer of the program. The program must require a bond obtained from a surety company in an amount and under the terms and conditions that the program finds will protect against loss arising from mismanagement or malfeasance in investing and managing program funds. The program may pay the premium on the bond.

(2) All interest and earnings collected on joint self-insurance program funds belong to the program and must be deposited to the program's credit in the proper program account.

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

NEW SECTION. Sec. 39. (1) An employee or official of a participating public benefit hospital entity in a joint self-insurance program may not directly or indirectly receive anything of value for services rendered in connection with the operation and management of a self-insurance program other than the salary and benefits provided by his or her employer or the reimbursement of expenses reasonably incurred in furtherance of the operation or management of the program. An employee or official of a participating public benefit hospital entity in a joint self-insurance program may not accept or solicit anything of value for personal benefit or for the benefit of others under circumstances in which it can be reasonably inferred that the employee's or official's independence of judgment is impaired with respect to the management and operation of the program.

(2) RCW 48.30.140, 48.30.150, and 48.30.157 apply to the use of insurance producers by a joint self-insurance program.

NEW SECTION. Sec. 40. A joint self-insurance program approved in accordance with this chapter is exempt from insurance premium taxes, fees assessed under chapter 48.02 RCW, chapters 48.32 and 48.32A RCW, business and occupation taxes imposed under chapter 82.04 RCW, and any assigned risk plan or joint underwriting association otherwise required by law. This section does not apply to, and no exemption is provided for, insurance companies issuing policies to cover program risks, and does not apply to or provide an exemption for third-party administrators or insurance producers serving the joint self-insurance program.

NEW SECTION. Sec. 41. (1) The state risk manager shall establish and charge an investigation fee in an amount necessary to cover the costs for the initial review and approval of a joint self-insurance program. The fee must accompany the initial submission of the plan of operation and management.

(2) The costs of subsequent reviews and investigations must be charged to the joint self-insurance program being reviewed or investigated in accordance with the actual time and expenses incurred in the review or investigation.

(3) Any program failing to remit its assessment when due is subject to denial of permission to operate or to a cease and desist order until the assessment is paid.

NEW SECTION. Sec. 42. (1) Any person who files reports or furnishes other information required under this title, required by the state risk manager under the authority granted under this title, or which is useful to the state risk manager in the administration of this title, is immune from liability in any civil action or suit arising from the filing of any such report or furnishing such information to the state risk manager, unless actual malice, fraud, or bad faith is shown.

(2) The state risk manager and his or her agents and employees are immune from liability in any civil action or suit arising from the publication of any report or bulletins or arising from dissemination of information related to the official activities of the state risk manager unless actual malice, fraud, or bad faith is shown.

(3) The immunity granted under this section is in addition to any common law or statutory privilege or immunity enjoyed by such person. This section is not intended to abrogate or modify in any way such common law or statutory privilege or immunity.

NEW SECTION. Sec. 43. Sections 1 through 13 of this act constitute a new chapter in Title 48 RCW."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Angel moved that the Senate concur in the House amendment(s) to Senate Bill No. 5581.

Senator Angel spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Angel that the Senate concur in the House amendment(s) to Senate Bill No. 5581.

The motion by Senator Angel carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5581 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5581, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5581, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senator Hasegawa

Excused: Senator Liias

SENATE BILL NO. 5581, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5644 with the following amendment(s): 5644-S AMH CB H2449.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 44. A host district of a cooperative skill center must maintain a separate minor repair and maintenance capital account for facilities constructed or renovated with state funding. Participating school districts must make annual deposits into the account to pay for future minor repair and maintenance costs of those facilities. The host district has authority to collect those deposits by charging participating districts an annual per-pupil facility fee."

Correct the title.

BERNARD DEAN, Chief Clerk

MOTION

Senator Honeyford moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5644.

Senator Honeyford spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Honeyford that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5644.

The motion by Senator Honeyford carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5644 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5644, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5644, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SUBSTITUTE SENATE BILL NO. 5644, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5661 with the following amendment(s): 5661 AMH APP H2607.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 45. The law enforcement officers' and firefighters' plan 2 retirement board shall study the requirement that members of plan 2 that are veterans make member contributions to the retirement plan for service credit in cases where the member left employment to serve during a specific conflict, but was not awarded a campaign badge or medal. The conflicts include: The crisis in Lebanon, the invasion of Grenada, Operation Just Cause in Panama, Operation Restore Hope in Somalia, Operation Uphold Democracy in Haiti, Operation Joint Endeavor in Bosnia, Operation Noble Eagle, Operation Enduring Freedom in Southern or Central Asia, and Operation Iraqi Freedom. The board shall work with the department of retirement systems and the military department to estimate the number of additional members that could become eligible for service credit without contributions, estimate the number of members that may be eligible for refunds if such a policy extended to past service credit purchases, and estimate the costs to the plan that would result from such policy changes. The board shall report the findings of the study to the appropriate committees of the legislature by January 1, 2018.

NEW SECTION. Sec. 46. Section 1 of this act is added to chapter 41.26 RCW, but because of its temporary nature, shall not be codified."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Rolfes moved that the Senate concur in the House amendment(s) to Senate Bill No. 5661.

Senator Rolfes spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rolfes that the Senate concur in the House amendment(s) to Senate Bill No. 5661.

The motion by Senator Rolfes carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5661 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5661, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5661, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SENATE BILL NO. 5661, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 10, 2017

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5404 with the following amendment(s): 5404-S AMH ED H2484.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 47. A new section is added to chapter 28A.210 RCW to read as follows:

(1) Any person, including students, parents, and school personnel, may possess topical sunscreen products to help prevent sunburn while on school property, at a school-related event or activity, or at summer camp. As excepted in RCW 28A.210.260, a sunscreen product may be possessed and applied under this section without the prescription or note of a licensed health care professional if the product is regulated by the United States food and drug administration for over-the-counter use. For student use, a sunscreen product must be supplied by a parent or guardian.

(2) Schools are encouraged to educate students about sun safety guidelines.

(3) Nothing in this section requires school personnel to assist students in applying sunscreen.

(4) As used in this section, "school" means a public school, school district, educational service district, or private school with any of grades kindergarten through twelve.

Sec. 48. RCW 28A.210.260 and 2013 c 180 s 1 are each amended to read as follows:

Public school districts and private schools which conduct any of grades kindergarten through the twelfth grade may provide for the administration of oral medication, topical medication, eye drops, ear drops, or nasal spray, of any nature to students who are in the custody of the school district or school at the time of

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

administration, but are not required to do so by this section, subject to the following conditions:

- (1) The board of directors of the public school district or the governing board of the private school or, if none, the chief administrator of the private school shall adopt policies which address the designation of employees who may administer oral medications, topical medications, eye drops, ear drops, or nasal spray to students, the acquisition of parent requests and instructions, and the acquisition of requests from licensed health professionals prescribing within the scope of their prescriptive authority and instructions regarding students who require medication for more than fifteen consecutive school days, the identification of the medication to be administered, the means of safekeeping medications with special attention given to the safeguarding of legend drugs as defined in chapter 69.41 RCW, and the means of maintaining a record of the administration of such medication;
- (2) The board of directors shall seek advice from one or more licensed physicians or nurses in the course of developing the foregoing policies;
- (3) The public school district or private school is in receipt of a written, current and unexpired request from a parent, or a legal guardian, or other person having legal control over the student to administer the medication to the student;
- (4) The public school district or the private school is in receipt of (a) a written, current and unexpired request from a licensed health professional prescribing within the scope of his or her prescriptive authority for administration of the medication, as there exists a valid health reason which makes administration of such medication advisable during the hours when school is in session or the hours in which the student is under the supervision of school officials, and (b) written, current and unexpired instructions from such licensed health professional prescribing within the scope of his or her prescriptive authority regarding the administration of prescribed medication to students who require medication for more than fifteen consecutive workdays;
- (5) The medication is administered by an employee designated by or pursuant to the policies adopted pursuant to subsection (1) of this section and in substantial compliance with the prescription of a licensed health professional prescribing within the scope of his or her prescriptive authority or the written instructions provided pursuant to subsection (4) of this section. If a school nurse is on the premises, a nasal spray that is a legend drug or a controlled substance must be administered by the school nurse. If no school nurse is on the premises, a nasal spray that is a legend drug or a controlled substance may be administered by a trained school employee or parent-designated adult who is not a school nurse. The board of directors shall allow school personnel, who have received appropriate training and volunteered for such training, to administer a nasal spray that is a legend drug or a controlled substance. After a school employee who is not a school nurse administers a nasal spray that is a legend drug or a controlled substance, the employee shall summon emergency medical assistance as soon as practicable;
- (6) The medication is first examined by the employee administering the same to determine in his or her judgment that it appears to be in the original container and to be properly labeled; and
- (7) The board of directors shall designate a professional person licensed pursuant to chapter 18.71 RCW or chapter 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners, to delegate to, train, and supervise the designated school district personnel in proper medication procedures;
- (8)(a) For the purposes of this section, "parent-designated adult" means a volunteer, who may be a school district employee, who

receives additional training from a health care professional or expert in epileptic seizure care selected by the parents, and who provides care for the child consistent with the individual health plan.

(b) To be eligible to be a parent-designated adult, a school district employee not licensed under chapter 18.79 RCW must file, without coercion by the employer, a voluntary written, current, and unexpired letter of intent stating the employee's willingness to be a parent-designated adult. If a school employee who is not licensed under chapter 18.79 RCW chooses not to file a letter under this section, the employee shall not be subject to any employer reprisal or disciplinary action for refusing to file a letter;

(9) The board of directors shall designate a professional person licensed under chapter 18.71, 18.57, or 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners, to consult and coordinate with the student's parents and health care provider, and train and supervise the appropriate school district personnel in proper procedures for care for students with epilepsy to ensure a safe, therapeutic learning environment. Training may also be provided by an epilepsy educator who is nationally certified. Parent-designated adults who are school employees are required to receive the training provided under this subsection. Parent-designated adults who are not school employees must show evidence of comparable training. The parent-designated adult must also receive additional training as established in subsection (8)(a) of this section for the additional care the parents have authorized the parent-designated adult to provide. The professional person designated under this subsection is not responsible for the supervision of the parent-designated adult for those procedures that are authorized by the parents;

(10) This section does not apply to topical sunscreen products regulated by the United States food and drug administration for over-the-counter use. Provisions related to possession and application of topical sunscreen products are in section 1 of this act.

NEW SECTION. Sec. 49. This act does not create any civil liability on the part of the state or any state agency, officer, employee, agent, political subdivision, or school district.

NEW SECTION. Sec. 50. This act may be known and cited as the student sun safety education act.

NEW SECTION. Sec. 51. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Zeiger moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5404.

Senator Zeiger spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Zeiger that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5404.

The motion by Senator Zeiger carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5404 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5404, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5404, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SUBSTITUTE SENATE BILL NO. 5404, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5274 with the following amendment(s): 5274 AMH APP H2494.1

Strike everything after the enacting clause and insert the following:

"Sec. 52. RCW 43.43.120 and 2011 1st sp.s. c 5 s 6 are each amended to read as follows:

As used in this section and RCW 43.43.130 through 43.43.320, unless a different meaning is plainly required by the context:

(1) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the director.

(2) "Annual increase" means as of July 1, 1999, seventy-seven cents per month per year of service which amount shall be increased each subsequent July 1st by three percent, rounded to the nearest cent.

(3)(a) "Average final salary," for members commissioned prior to January 1, 2003, shall mean the average monthly salary received by a member during the member's last two years of service or any consecutive two-year period of service, whichever is the greater, as an employee of the Washington state patrol; or if the member has less than two years of service, then the average monthly salary received by the member during the member's total years of service.

(b) "Average final salary," for members commissioned on or after January 1, 2003, shall mean the average monthly salary received by a member for the highest consecutive sixty service credit months; or if the member has less than sixty months of service, then the average monthly salary received by the member during the member's total months of service.

(c) In calculating average final salary under (a) or (b) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by the member during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief; and

(ii) Any compensation forgone by a member during the 2011-2013 fiscal biennium as a result of reduced work hours,

mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief. Reductions to current pay shall not include elimination of previously agreed upon future salary reductions.

(4) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(5)(a) "Cadet," for a person who became a member of the retirement system after June 12, 1980, is a person who has passed the Washington state patrol's entry-level oral, written, physical performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(b) "Cadet," for a person who became a member of the retirement system before June 12, 1980, is a trooper cadet, patrol cadet, or employee of like classification, employed for the express purpose of receiving the on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper. "Like classification" includes: Radio operators or dispatchers; persons providing security for the governor or legislature; patrol officers; drivers' license examiners; weighmasters; vehicle safety inspectors; central wireless operators; and warehouse workers.

(6) "Contributions" means the deduction from the compensation of each member in accordance with the contribution rates established under chapter 41.45 RCW.

(7) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

(8) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(9) "Director" means the director of the department of retirement systems.

(10) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.040.

(11) "Employee" means any commissioned employee of the Washington state patrol.

(12) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(13) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(14) "Member" means any person included in the membership of the retirement fund.

(15) "Plan 2" means the Washington state patrol retirement system plan 2, providing the benefits and funding provisions covering commissioned employees who first become members of the system on or after January 1, 2003.

(16) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(17) "Regular interest" means interest compounded annually at such rates as may be determined by the director.

(18) "Retirement board" means the board provided for in this chapter.

(19) "Retirement fund" means the Washington state patrol retirement fund.

(20) "Retirement system" means the Washington state patrol retirement system.

(21)(a) "Salary," for members commissioned prior to July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040, or any voluntary overtime, earned on or after July 1, 2001, and prior to July 1, 2017. On or after July 1, 2017, salary shall exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime.

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

(b) "Salary," for members commissioned on or after July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, earned prior to July 1, 2017, lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, holiday pay, or any form of severance pay. On or after July 1, 2017, salary shall exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime. (c) The addition of overtime earnings related to RCW 47.46.040 or any voluntary overtime earned on or after July 1, 2017, in this act is a benefit improvement that increases the member maximum contribution rate under RCW 41.45.0631(1) by 1.10 percent.

(22) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for seventy or more hours in any given calendar month shall constitute one month of service. An employee who is reinstated in accordance with RCW 43.43.110 shall suffer no loss of service for the period reinstated subject to the contribution requirements of this chapter. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for herein. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(23) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(24) "State treasurer" means the treasurer of the state of Washington.

Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Conway moved that the Senate concur in the House amendment(s) to Senate Bill No. 5274.

Senator Conway spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Conway that the Senate concur in the House amendment(s) to Senate Bill No. 5274.

The motion by Senator Conway carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5274 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5274, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5274, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña,

Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SENATE BILL NO. 5274, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 5, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5049 with the following amendment(s): 5049 AMH JUDI H2402.1

Strike everything after the enacting clause and insert the following:

"Sec. 53. RCW 8.26.010 and 1988 c 90 s 1 are each amended to read as follows:

(1) The purposes of this chapter are:

(a) To establish a uniform policy for the fair and equitable treatment of persons displaced as a direct result of public works programs of the state and local governments in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole and to minimize the hardship of displacement on such persons;

(b) To encourage and expedite the acquisition of real property for public works programs by agreements with owners, to reduce litigation and relieve congestion in the courts, to assure consistent treatment for owners affected by state and local programs, and to promote public confidence in state and local land acquisition practices;

(c) To require the state, local public agencies, and other persons who have the authority to acquire property by eminent domain under state law to comply with the provisions of this act in order to assure the fair and equitable treatment of all persons and property owners impacted by public projects.

~~(2) ((Notwithstanding the provisions and limitations of this chapter requiring a local public agency to comply with the provisions of this chapter, the governing body of any local public agency may elect not to comply with the provisions of RCW 8.26.035 through 8.26.115 in connection with a program or project not receiving federal financial assistance. Any person who has the authority to acquire property by eminent domain under state law may elect not to comply with RCW 8.26.180 through 8.26.200 in connection with a program or project not receiving federal financial assistance.~~

~~(3)) Any determination by the head of a state agency or local public agency administering a program or project as to payments under this chapter is subject to review pursuant to chapter 34.05 RCW; otherwise, no provision of this chapter may be construed to give any person a cause of action in any court.~~

~~((4)) (3) Unless otherwise prohibited by law, any state or local public agency providing a grant, loan, or matching funds for any program or project that displaces persons who are eligible for relocation assistance under this chapter may not limit, restrict, or otherwise prohibit grant, loan, or matching fund money from being used for any required relocation assistance payments.~~

(4) The governing body of any local public agency may elect not to comply with the provisions of RCW 8.26.035 through 8.26.115 in connection with a program or project not receiving federal financial assistance initiated on or before December 31, 2017.

(5) Nothing in this chapter may be construed as creating in any condemnation proceedings brought under the power of eminent

domain, any element of value or of damage not in existence immediately before March 16, 1988."

Correct the title.

BERNARD DEAN, Chief Clerk

MOTION

Senator King moved that the Senate concur in the House amendment(s) to Senate Bill No. 5049.

Senator King spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator King that the Senate concur in the House amendment(s) to Senate Bill No. 5049.

The motion by Senator King carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5049 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5049, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5049, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SENATE BILL NO. 5049, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5391 with the following amendment(s): 5391 AMH RYUC KLEE 105

On page 3, at the beginning of line 29, strike "conversation" and insert "conservation"

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Zeiger moved that the Senate concur in the House amendment(s) to Senate Bill No. 5391.

Senator Zeiger spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Zeiger that the Senate concur in the House amendment(s) to Senate Bill No. 5391.

The motion by Senator Zeiger carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5391 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5391, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5391, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

SENATE BILL NO. 5391, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 5, 2017

MR. PRESIDENT:

The House passed SENATE BILL NO. 5454 with the following amendment(s): 5454 AMH LG H2490.2

Strike everything after the enacting clause and insert the following:

"**Sec. 54.** RCW 52.04.061 and 2010 c 136 s 2 are each amended to read as follows:

(1) A city or town (~~lying adjacent~~) located within reasonable proximity to a fire protection district may be annexed to such district if at the time of the initiation of annexation the population of the city or town is 300,000 or less. The legislative authority of the city or town may initiate annexation by the adoption of an ordinance stating an intent to join the fire protection district and finding that the public interest will be served thereby. If the board of fire commissioners of the fire protection district shall concur in the annexation, notification thereof shall be transmitted to the legislative authority or authorities of the counties in which the city or town and the district are situated.

(2) (~~When a city or town is located in two counties, and at least eighty percent of the population resides in one county, all of that portion of the city lying in that county and encompassing eighty percent of the population may be annexed to a fire protection district if at the time of the initiation of annexation the proposed area lies adjacent to a fire protection district, and the population of the proposed area is greater than five thousand but less than ten thousand. The legislative authority of the city or town may initiate annexation by the adoption of an ordinance stating an intent to join the fire protection district and finding that the public interest will be served thereby. If the board of fire commissioners of the fire protection district shall concur in the annexation, notification thereof must be transmitted to the legislative authority or authorities of the counties in which the city or town and the district are situated.~~) For the purposes of this section, "reasonable proximity" means geographical areas near enough to each other so that governance, management, and services can be delivered effectively.

Sec. 55. RCW 52.04.071 and 2011 c 10 s 82 are each amended to read as follows:

The county legislative authority or authorities shall by resolution call a special election to be held in the city (~~partial city as set forth in RCW 52.04.061(2),~~) or town and in the fire protection district at the next date according to RCW 29A.04.321, and shall

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

cause notice of the election to be given as provided for in RCW 29A.52.355.

The election on the annexation of the city(~~(, partial city as set forth in RCW 52.04.061(2),)~~) or town into the fire protection district shall be conducted by the auditor of the county or counties in which the city(~~(, partial city as set forth in RCW 52.04.061(2),)~~) or town and the fire protection district are located in accordance with the general election laws of the state. The results thereof shall be canvassed by the canvassing board of the county or counties. No person is entitled to vote at the election unless he or she is a qualified elector in the city(~~(, partial city as set forth in RCW 52.04.061(2),)~~) or town or unless he or she is a qualified elector within the boundaries of the fire protection district. The ballot proposition shall be in substantially the following form:

"Shall the city(~~(, partial city as set forth in RCW 52.04.061(2),)~~) or town of be annexed to and be a part of fire protection district?

YES

NO "

If a majority of the persons voting on the proposition in the city(~~(, partial city as set forth in RCW 52.04.061(2),)~~) or town and a majority of the persons voting on the proposition in the fire protection district vote in favor thereof, the city(~~(, partial city as set forth in RCW 52.04.061(2),)~~) or town shall be annexed and shall be a part of the fire protection district.

Sec. 56. RCW 52.04.081 and 2009 c 115 s 3 are each amended to read as follows:

The annual tax levies authorized by chapter 52.16 RCW shall be imposed throughout the fire protection district, including any city(~~(, partial city as set forth in RCW 52.04.061(2),)~~) or town annexed thereto. Any city(~~(, partial city as set forth in RCW 52.04.061(2),)~~) or town annexed to a fire protection district is entitled to levy up to three dollars and sixty cents per thousand dollars of assessed valuation less any regular levy made by the fire protection district or by a library district under RCW 27.12.390 in the incorporated area: PROVIDED, That the limitations upon regular property taxes imposed by chapter 84.55 RCW apply.

Sec. 57. RCW 52.04.091 and 2009 c 115 s 4 are each amended to read as follows:

When any city, code city, (~~(partial city as set forth in RCW 52.04.061(2),)~~) or town is annexed to a fire protection district under RCW 52.04.061 and 52.04.071, thereafter, any territory annexed by the city shall also be annexed and be a part of the fire protection district.

Sec. 58. RCW 52.04.101 and 2009 c 115 s 5 are each amended to read as follows:

The legislative body of such a city(~~(, partial city as set forth in RCW 52.04.061(2),)~~) or town which has annexed to such a fire protection district(~~(,)~~) may, by resolution, present to the voters of such city(~~(, partial city as set forth in RCW 52.04.061(2),)~~) or town a proposition to withdraw from said fire protection district at any general election held at least three years following the annexation to the fire protection district. If the voters approve such a proposition to withdraw from said fire protection district, the city(~~(, partial city as set forth in RCW 52.04.061(2),)~~) or town shall have a vested right in the capital assets of the district proportionate to the taxes levied within the corporate boundaries of the city(~~(, partial city as set forth in RCW 52.04.061(2),)~~) or town and utilized by the fire protection district to acquire such assets.

Sec. 59. RCW 52.04.111 and 2010 c 8 s 15001 are each amended to read as follows:

(1) When any city, code city, (~~(partial city as set forth in RCW 52.04.061(2),)~~) or town is annexed to a fire protection district

under RCW 52.04.061 and 52.04.071, any employee of the fire department of such city, code city, (~~(partial city as set forth in RCW 52.04.061(2),)~~) or town who (~~((1))~~): **(a)** Was at the time of annexation employed exclusively or principally in performing the powers, duties, and functions which are to be performed by the fire protection district (~~((2))~~); **(b)** will, as a direct consequence of annexation, be separated from the employ of the city, code city, (~~(partial city as set forth in RCW 52.04.061(2),)~~) or town(~~(,)~~); and (~~((3))~~) **(c)** can perform the duties and meet the minimum requirements of the position to be filled, then such employee may transfer his or her employment to the fire protection district as provided in this section and RCW 52.04.121 and 52.04.131.

(2) For purposes of this section and RCW 52.04.121 and 52.04.131, employee means an individual whose employment with a city, code city, (~~(partial city as set forth in RCW 52.04.061(2),)~~) or town has been terminated because the city, code city, (~~(partial city as set forth in RCW 52.04.061(2),)~~) or town was annexed by a fire protection district for purposes of fire protection.

Sec. 60. RCW 52.04.121 and 2009 c 115 s 7 are each amended to read as follows:

(1) An eligible employee may transfer into the fire protection district civil service system, if any, or if none, then may request transfer of employment under this section by filing a written request with the board of fire commissioners of the fire protection district and by giving written notice to the legislative authority of the city, code city, (~~(partial city as set forth in RCW 52.04.061(2),)~~) or town. Upon receipt of such request by the board of fire commissioners the transfer of employment shall be made. The employee so transferring will: **(a)** Be on probation for the same period as are new employees of the fire protection district in the position filled, but if the transferring employee has already completed a probationary period as a firefighter prior to the transfer, then the employee may only be terminated during the probationary period for failure to adequately perform assigned duties, not meeting the minimum qualifications of the position, or behavior that would otherwise be subject to disciplinary action(~~(,)~~); **(b)** be eligible for promotion no later than after completion of the probationary period(~~(,)~~); **(c)** receive a salary at least equal to that of other new employees of the fire protection district in the position filled(~~(,)~~); and **(d)** in all other matters, such as retirement, vacation, and sick leave, have all the rights, benefits, and privileges to which he or she would have been entitled as an employee of the fire protection district from the beginning of employment with the city, code city, (~~(partial city as set forth in RCW 52.04.061(2),)~~) or town fire department: PROVIDED, That for purposes of layoffs by the annexing fire agency, only the time of service accrued with the annexing agency shall apply unless an agreement is reached between the collective bargaining representatives of the employees of the annexing and annexed fire agencies and the annexing and annexed fire agencies. The city, code city, (~~(partial city as set forth in RCW 52.04.061(2),)~~) or town shall, upon receipt of such notice, transmit to the board of fire commissioners a record of the employee's service with the city, code city, (~~(partial city as set forth in RCW 52.04.061(2),)~~) or town which shall be credited to such employee as a part of the period of employment in the fire protection district. All accrued benefits are transferable provided that the recipient agency provides comparable benefits. All benefits shall then accrue based on the combined seniority of each employee in the recipient agency.

(2) As many of the transferring employees shall be placed upon the payroll of the fire protection district as the district determines are needed to provide services. These needed employees shall be taken in order of seniority and the remaining employees who

transfer as provided in this section and RCW 52.04.111 and 52.04.131 shall head the list for employment in the civil service system in order of their seniority, to the end that they shall be the first to be reemployed in the fire protection district when appropriate positions become available: PROVIDED, That employees who are not immediately hired by the fire protection district shall be placed on a reemployment list for a period not to exceed thirty-six months unless a longer period is authorized by an agreement reached between the collective bargaining representatives of the employees of the annexing and annexed fire agencies and the annexing and annexed fire agencies.

Sec. 61. RCW 52.04.131 and 2009 c 115 s 8 are each amended to read as follows:

When a city, code city, (~~(partial city as set forth in RCW 52.04.061(2)),~~) or town is annexed to a fire protection district and as a result any employee is laid off who is eligible to transfer to the fire protection district pursuant to this section and RCW 52.04.111 and 52.04.121, the city, code city, (~~(partial city as set forth in RCW 52.04.061(2)),~~) or town shall notify the employee of the right to transfer and the employee shall have ninety days to transfer employment to the fire protection district.

Sec. 62. RCW 52.04.171 and 2010 c 63 s 1 are each amended to read as follows:

All property located within the boundaries of a city, (~~(partial city as set forth in RCW 52.04.061(2)),~~) or town annexing into a fire protection district, which property is subject to an excess levy by the city or town for the repayment of voter-approved indebtedness for fire protection related capital improvements incurred prior to the effective date of the annexation, is exempt from voter-approved excess property taxes levied by the annexing fire protection district for the repayment of indebtedness issued prior to the effective date of the annexation.

Sec. 63. RCW 52.06.010 and 1989 c 63 s 13 are each amended to read as follows:

(1) A fire protection district may merge with another (~~(adjacent)~~) fire protection district located within a reasonable proximity, on such terms and conditions as they agree upon, in the manner provided in this title. The fire protection districts may be located in different counties. The district desiring to merge with another district, or the district from which it is proposed that a portion of the district be merged with another district, shall be called the "merging district." The district into which the merger is to be made shall be called the "merger district." The merger of any districts under chapter 52.06 RCW is subject to potential review by the boundary review board or boards of the county in which the merging district, or the portion of the merging district that is proposed to be merged with another district, is located.

(2) For the purposes of this section, "reasonable proximity" means geographical areas near enough to each other so that governance, management, and services can be delivered effectively."

Correct the title.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Short moved that the Senate concur in the House amendment(s) to Senate Bill No. 5454.

Senator Short spoke in favor of the motion.

MOTION

On motion of Senator Saldaña, Senator Chase was excused.

The President declared the question before the Senate to be the motion by Senator Short that the Senate concur in the House amendment(s) to Senate Bill No. 5454.

The motion by Senator Short carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5454 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5454, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5454, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senator Hasegawa

Excused: Senator Chase

SENATE BILL NO. 5454, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 11, 2017

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5628 with the following amendment(s): 5628-S.E AMH LG H2489.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 64. A new section is added to chapter 52.02 RCW to read as follows:

(1) As an alternative to the petition method of formation for fire protection districts provided in this chapter, the legislative authority of a city or town may by resolution, subject to the approval of the voters, establish a fire protection district with boundaries that are the same as the corporate boundaries of the city or town for the provision of fire prevention services, fire suppression services, and emergency medical services, and for the protection of life and property within the city or town.

(a) Any resolution adopted by a city or town under this section to establish a fire protection district must, at a minimum:

(i) Contain a financing plan for the fire protection district. As part of the financing plan, the city or town may propose the imposition of revenue sources authorized by this title for fire protection districts, such as property taxes, as provided in chapter 52.16 RCW, or benefit charges, as provided in chapter 52.18 RCW; and

(ii) Set a date for a public hearing on the resolution.

(b) The financing plan in the resolution adopted by the city or town must contain the following information regarding property taxes that will be imposed by the fire protection district and city or town subsequent to the formation of the district:

(i) The dollar amount the fire protection district will levy in the first year in which the fire protection district imposes any of the regular property taxes in RCW 52.16.130, 52.16.140, or 52.16.160;

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

(ii) The city's or town's highest lawful levy for the purposes of RCW 84.55.092, reduced by the fire protection district's levy amount from (b)(i) of this subsection. This reduced highest lawful levy becomes the city's or town's highest lawful levy since 1986 for subsequent levy limit calculations under chapter 84.55 RCW; and

(iii) The estimated aggregate net dollar amount impact on property owners within the city or town based on the changes described in (b)(i) and (ii) of this subsection (1).

(c) If a city or town proposes the initial imposition of a benefit charge as a revenue source for the fire protection district under (a) of this subsection, the resolution adopted by the city or town must comply with the requirements of RCW 52.18.030.

(d) Notice of public hearing on a resolution adopted by a city or town must be published for three consecutive weeks in a newspaper of general circulation in the city or town, and must be posted for at least fifteen days prior to the date of the hearing in three public places within the boundaries of the proposed fire protection district. All notices must contain the time, date, and place of the public hearing.

(2)(a) A resolution adopted under this section is not effective unless approved by the voters of the city or town at a general election. The resolution must be approved:

(i) By a simple majority of the voters of the city or town; or

(ii) If the resolution proposes the initial imposition of a benefit charge, by sixty percent of the voters of the city or town.

(b) An election to approve or reject a resolution forming a fire protection district, including the proposed financial plan and any imposition of revenue sources for the fire protection district, must be conducted by the election officials of the county or counties in which the proposed district is located in accordance with the general election laws of the state. If a resolution forming a fire protection district provides that the fire protection district will be governed by a board of fire commissioners, as permitted under section 6 of this act, then the initial fire commissioners must be elected at the same election where the resolution is submitted to the voters authorizing the creation of the fire protection district. The election must be held at the next general election date, according to RCW 29A.04.321 and 29A.04.330, occurring after the date of the public hearing on the resolution adopted by the city or town legislative authority. The ballot title must include the information regarding property taxes that is required to be in the financing plan of the resolution under subsection (1)(b) of this section.

(c) If a ballot proposition on the resolution is approved by voters, as provided in (a) of this subsection, the county legislative authority shall by resolution declare the fire protection district organized under the name designated in the ballot proposition.

(d) Nothing contained in this chapter may be construed to alter a municipal airport fire department or affect any powers authorized under RCW 14.08.120(2). If a question arises as to whether this chapter modifies the affairs of municipal airports in any way, the answer is no.

(3) A city or town must reduce its general fund regular property tax levy by the total combined levy of the fire protection district as proposed by the district in accordance with subsection (1)(b)(i) of this section. The reduced levy amount of the city or town must occur in the first year in which the fire protection district imposes any of the property taxes in RCW 52.16.130, 52.16.140, or 52.16.160 and must be specified in the financing plan and ballot proposition as provided in this section. If the fire protection district does not impose all three levies under RCW 52.16.130, 52.16.140, and 52.16.160 when it begins operations, the city must further reduce its general fund regular property tax levy if the district initially imposes any of the levies in subsequent years, by

the amount of such levy or levies initially imposed in a subsequent year.

NEW SECTION. Sec. 65. A new section is added to chapter 52.02 RCW to read as follows:

(1) A fire protection district may establish an ambulance service to be operated as a public utility. However, the fire protection district may not provide for the establishment of an ambulance service utility that would compete with any existing private ambulance service unless the fire protection district determines that the area served by the fire protection district, or a substantial portion of that area, is not adequately served by an existing private ambulance service.

(2) In determining the adequacy of an existing private ambulance service, the fire protection district must take into consideration objective generally accepted medical standards and reasonable levels of service, which must be published by the fire protection district. If a fire protection district makes a preliminary conclusion that an existing private ambulance service is inadequate, the fire protection district must allow a minimum of sixty days for the private ambulance service to meet the generally accepted medical standards and accepted levels of service. If the fire protection district makes a second preliminary conclusion of inadequacy within a twenty-four month period, the fire protection district may immediately issue a call for bids or establish its own ambulance service utility and is not required to afford the private ambulance service another sixty-day period to meet the generally accepted medical standards and reasonable levels of service.

(3) A private ambulance service that is not licensed by the department of health, or has had its license denied, suspended, or revoked, is not entitled to a sixty-day period to demonstrate adequacy, and the fire protection district may immediately issue a call for bids or establish an ambulance service utility.

(4) A private ambulance service that abandons service in the area served by the fire protection district, or a substantial portion of the area served by the fire protection district, is not entitled to a sixty-day period to demonstrate adequacy, and the fire protection district may immediately issue a call for bids or establish an ambulance service utility. If a fire protection district becomes aware of an intent to abandon service at a future date, the fire protection district may immediately issue a call for bids or establish an ambulance service utility to avoid an interruption in service.

(5) For purposes of this section, "fire protection district" means a fire protection district established by the legislative authority of a city or town pursuant to section 1 of this act.

Sec. 66. RCW 84.55.092 and 1998 c 16 s 3 are each amended to read as follows:

(1) The regular property tax levy for each taxing district other than the state may be set at the amount which would be allowed otherwise under this chapter if the regular property tax levy for the district for taxes due in prior years beginning with 1986 had been set at the full amount allowed under this chapter including any levy authorized under RCW 52.16.160 that would have been imposed but for the limitation in RCW 52.18.065, applicable upon imposition of the benefit charge under chapter 52.18 RCW.

(2) The purpose of subsection (1) of this section is to remove the incentive for a taxing district to maintain its tax levy at the maximum level permitted under this chapter, and to protect the future levy capacity of a taxing district that reduces its tax levy below the level that it otherwise could impose under this chapter, by removing the adverse consequences to future levy capacities resulting from such levy reductions.

(3) Subsection (1) of this section does not apply to any portion of a city or town's regular property tax levy that has been reduced as

part of the formation of a fire protection district under section 1 of this act.

Sec. 67. RCW 29A.36.071 and 2015 c 172 s 3 are each amended to read as follows:

(1) Except as provided to the contrary in RCW 82.14.036, 82.46.021, or 82.80.090, the ballot title of any referendum filed on an enactment or portion of an enactment of a local government and any other question submitted to the voters of a local government consists of three elements: (a) An identification of the enacting legislative body and a statement of the subject matter; (b) a concise description of the measure; and (c) a question. The ballot title must conform with the requirements and be displayed substantially as provided under RCW 29A.72.050, except that the concise description must not exceed seventy-five words; however, a concise description submitted on behalf of a proposed or existing regional transportation investment district or a proposed fire protection district, as provided in section 1 of this act, may exceed seventy-five words. If the local governmental unit is a city or a town, or if the ballot title is for a referendum under RCW 35.13A.115, the concise statement (~~shall~~) must be prepared by the city or town attorney. If the local governmental unit is a county, the concise statement (~~shall~~) must be prepared by the prosecuting attorney of the county. If the unit is a unit of local government other than a city, town, or county, the concise statement (~~shall~~) must be prepared by the prosecuting attorney of the county within which the majority area of the unit is located.

(2) A referendum measure on the enactment of a unit of local government (~~shall~~) must be advertised in the manner provided for nominees for elective office.

(3) Subsection (1) of this section does not apply if another provision of law specifies the ballot title for a specific type of ballot question or proposition.

NEW SECTION. Sec. 68. A new section is added to chapter 52.02 RCW to read as follows:

(1) Except as provided otherwise in the resolution adopted by the legislative authority of a city or town establishing a fire protection district under section 1 of this act, all powers, duties, and functions of the city or town fire department pertaining to fire protection and emergency services of the city or town are transferred to the fire protection district on its creation date.

(2)(a) The city or town fire department must transfer or deliver to the fire protection district:

(i) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the city or town fire department pertaining to fire protection and emergency services powers, functions, and duties;

(ii) All real property and personal property including cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the city or town fire department in carrying out the fire protection and emergency services powers, functions, and duties; and

(iii) All funds, credits, or other assets held by the city or town fire department in connection with fire protection and emergency services powers, functions, and duties.

(b) Any appropriations made to the city or town fire department for carrying out the fire protection and emergency services powers, functions, and duties of the city or town must be transferred and credited to the fire protection district.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred to the fire protection district, the legislative authority of the city or town must make a determination as to the proper allocation.

(3) All rules and all pending business before the city or town fire department pertaining to the fire protection and emergency services powers, functions, and duties transferred must be continued and acted upon by the fire protection district, and all existing contracts and obligations remain in full force and must be performed by the fire protection district.

(4) The transfer of powers, duties, functions, and personnel of the city or town fire department do not affect the validity of any act performed before creation of the fire protection district.

(5) If apportionments of budgeted funds are required because of the transfers, the treasurer for the city or town fire department must certify the apportionments.

(6)(a) Subject to (c) of this subsection, all employees of the city or town fire department are transferred to the fire protection district on its creation date. Upon transfer, unless an agreement for different terms of transfer is reached between the collective bargaining representatives of the transferring employees and the fire protection district, an employee is entitled to the employee rights, benefits, and privileges to which he or she would have been entitled as an employee of the city or town fire department, including rights to:

(i) Compensation at least equal to the level at the time of transfer;

(ii) Retirement, vacation, sick leave, and any other accrued benefit;

(iii) Promotion and service time accrual; and

(iv) The length or terms of probationary periods, including no requirement for an additional probationary period if one had been completed before the transfer date.

(b) If a city or town provides for civil service in its fire department, the collective bargaining representatives of the transferring employees and the fire protection district must negotiate regarding the establishment of a civil service system within the fire protection district.

(c) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified as provided by law.

NEW SECTION. Sec. 69. A new section is added to chapter 52.14 RCW to read as follows:

(1) The members of the legislative authority of a city or town shall serve ex officio, by virtue of their office, as the fire commissioners of a fire protection district created under section 1 of this act.

(2) The legislative authority of a city or town may, within the initial resolution establishing the district's formation, relinquish governance authority of a fire protection district created under this act to an independently elected board of commissioners to be elected in accordance with RCW 52.14.060.

(3)(a) The legislative authority of a city or town may, by a majority vote of its members in an open public meeting, relinquish governance authority of a fire protection district created under this act to an appointed board of three fire commissioners at any time after formation. Each appointed commissioner serves until successors are elected at the next qualified election.

At the next qualified election, the person who receives the greatest number of votes for each commissioner position is elected to that position. The terms of office for the initial elected fire commissioners are staggered as follows:

(i) The person who is elected receiving the greatest number of votes is elected to a six-year term of office if the election is held in an odd-numbered year, or a five-year term of office if the election is held in an even-numbered year;

(ii) The person who is elected receiving the next greatest number of votes is elected to a four-year term of office if the election is

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

held in an odd-numbered year, or a three-year term of office if the election is held in an even-numbered year; and

(iii) The other person who is elected is elected to a two-year term of office if the election is held in an odd-numbered year, or a one-year term of office if the election is held in an even-numbered year. The term of office for each subsequent commissioner is six years.

(b) If the legislative authority of a city or town relinquishes governance authority of a fire protection district after formation under this section, and that fire protection district maintains a fire department consisting wholly of personnel employed on a full-time, fully paid basis, that district shall have five fire commissioners. The terms of office for the initial elected fire commissioners are staggered as follows:

(i) The two people elected receiving the two greatest number of votes are elected to six-year terms of office if the election is held in an odd-numbered year, or five-year terms of office if the election is held in an even-numbered year;

(ii) The two people who are elected receiving the next two greatest number of votes are elected to four-year terms of office if the election is held in an odd-numbered year, or three-year terms of office if the election is held in an even-numbered year; and

(iii) The other person who is elected is elected to a two-year term of office if the election is held in an odd-numbered year, or a one-year term of office if the election is held in an even-numbered year. The term of office for each subsequent commissioner is six years.

(c) If the legislative authority of a city or town relinquishes governance authority of a fire protection district after formation under this section, and that fire protection district has an annual budget of ten million dollars or more, that district must have seven fire commissioners. The terms of office for the initial elected fire commissioners are staggered as follows:

(i) The three people who are elected receiving the three greatest number of votes are elected to six-year terms of office if the election is held in an odd-numbered year, or five-year terms of office if the election is held in an even-numbered year;

(ii) The two people who are elected receiving the next two greatest number of votes are elected to four-year terms of office if the election is held in an odd-numbered year, or three-year terms of office if the election is held in an even-numbered year; and

(iii) The other two people who are elected are elected to two-year terms of office if the election is held in an odd-numbered year, or one-year terms of office if the election is held in an even-numbered year. The term of office for each subsequent commissioner is six years.

Sec. 70. RCW 52.14.010 and 2012 c 174 s 1 are each amended to read as follows:

(1) The affairs of the district shall be managed by a board of fire commissioners composed initially of three registered voters residing in the district, except as provided otherwise in RCW 52.14.015 ((and)), 52.14.020, and section 6 of this act.

(2)(a) Each member of an elected board of fire commissioners shall each receive one hundred four dollars per day or portion thereof, not to exceed nine thousand nine hundred eighty-four dollars per year, for time spent in actual attendance at official meetings of the board or in performance of other services or duties on behalf of the district. Members serving in an ex officio capacity on a board of fire commissioners may not receive compensation, but shall receive necessary expenses in accordance with (b) of this subsection.

((In addition, they)) (b) Each member of a board of fire commissioners shall receive necessary expenses incurred in

attending meetings of the board or when otherwise engaged in district business, and shall be entitled to receive the same insurance available to all firefighters of the district: PROVIDED, That the premiums for such insurance, except liability insurance, shall be paid by the individual commissioners who elect to receive it.

(c) Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the secretary as provided in this section. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

(3) The board shall fix the compensation to be paid the secretary and all other agents and employees of the district. The board may, by resolution adopted by unanimous vote, authorize any of its members to serve as volunteer firefighters without compensation. A commissioner actually serving as a volunteer firefighter may enjoy the rights and benefits of a volunteer firefighter.

(4) The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2008, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

(5) A person holding office as commissioner for two or more special purpose districts or serving ex officio as commissioner as a member of the legislative authority of a city or town shall receive only that per diem compensation authorized for one of his or her ~~((commissioner))~~ official positions as compensation for attending an official meeting or conducting official services or duties while representing more than one ~~((of his or her districts))~~ district or representing a municipality and a district. However, such commissioner may receive additional per diem compensation if approved by resolution of ~~((the))~~ the boards of ~~((the))~~ an affected commission~~((s))~~, city, or town.

Sec. 71. RCW 52.14.020 and 2012 c 174 s 2 are each amended to read as follows:

(1) In a fire protection district ~~((maintaining))~~ with elected commissioners that maintains a fire department consisting wholly of personnel employed on a full-time, fully-paid basis, there shall be five fire commissioners. A fire protection district with an annual budget of ten million dollars or more may have seven fire commissioners.

(2)(a) If two positions are created on boards of fire commissioners by this section, such positions shall be filled initially as for a vacancy, except that the appointees shall draw lots, one appointee to serve until the next general fire district election after the appointment, at which two commissioners shall be elected for six-year terms, and the other appointee to serve until the second general fire district election after the appointment, at which two commissioners shall be elected for six-year terms.

(b) If four positions are created on boards of fire commissioners by this section, such positions shall be filled initially as for a

vacancy, except that the appointees shall draw lots, three appointees to serve until the next general fire district election after the appointment, at which three commissioners shall be elected for six-year terms and two commissioners shall be elected for four-year terms, and the other appointee to serve until the second general fire district election after the appointment, at which two commissioners shall be elected for six-year terms.

Sec. 72. RCW 84.09.030 and 2012 c 186 s 17 are each amended to read as follows:

(1)(a) Except as provided in (b) (~~and~~), (c), and (d) of this subsection (1), for the purposes of property taxation and the levy of property taxes, the boundaries of counties, cities, and all other taxing districts shall be the established official boundaries of such districts existing on the first day of August of the year in which the property tax levy is made.

(b) The boundaries for a newly incorporated port district or regional fire protection service authority shall be established on the first day of October if the boundaries of the newly incorporated port district or regional fire protection service authority are coterminous with the boundaries of another taxing district or districts, as they existed on the first day of August of that year.

(c) The boundaries of a school district that is required to receive or annex territory due to the dissolution of a financially insolvent school district under RCW 28A.315.225 must be the established official boundaries of such districts existing on the first day of September of the year in which the property tax levy is made.

(d) The boundaries of a newly established fire protection district authorized under section 1 of this act are the established official boundaries of the district as of the date that the voter-approved proposition required under section 1 of this act is certified.

(2) In any case where any instrument setting forth the official boundaries of any newly established taxing district, or setting forth any change in the boundaries, is required by law to be filed in the office of the county auditor or other county official, the instrument shall be filed in triplicate. The officer with whom the instrument is filed shall transmit two copies of the instrument to the county assessor.

(3) No property tax levy shall be made for any taxing district whose boundaries are not established as of the dates provided in this section."

Correct the title.

BERNARD DEAN, Chief Clerk

MOTION

Senator Short moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5628.

Senator Short spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Short that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5628.

The motion by Senator Short carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5628 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5628, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5628, as amended by the House, and

the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Excused: Senator Chase

ENGROSSED SUBSTITUTE SENATE BILL NO. 5628, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2017

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5552 with the following amendment(s): 5552-S.E AMH JUDI H2404.1

Strike everything after the enacting clause and insert the following:

"Sec. 73. RCW 9.41.010 and 2015 c 1 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Antique firearm" means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(2) "Barrel length" means the distance from the bolt face of a closed action down the length of the axis of the bore to the crown of the muzzle, or in the case of a barrel with attachments to the end of any legal device permanently attached to the end of the muzzle.

(3) "Crime of violence" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, burglary in the second degree, residential burglary, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to June 6, 1996, which is comparable to a felony classified as a crime of violence in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a crime of violence under (a) or (b) of this subsection.

(4) "Dealer" means a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required to have, a federal firearms

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

(5) "Family or household member" means "family" or "household member" as used in RCW 10.99.020.

(6) "Felony" means any felony offense under the laws of this state or any federal or out-of-state offense comparable to a felony offense under the laws of this state.

(7) "Felony firearm offender" means a person who has previously been convicted or found not guilty by reason of insanity in this state of any felony firearm offense. A person is not a felony firearm offender under this chapter if any and all qualifying offenses have been the subject of an expungement, pardon, annulment, certificate, or rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(8) "Felony firearm offense" means:

(a) Any felony offense that is a violation of this chapter;

(b) A violation of RCW 9A.36.045;

(c) A violation of RCW 9A.56.300;

(d) A violation of RCW 9A.56.310;

(e) Any felony offense if the offender was armed with a firearm in the commission of the offense.

(9) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes.

(10) "Gun" has the same meaning as firearm.

(11) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

(12) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

(13) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

(14) "Loaded" means:

(a) There is a cartridge in the chamber of the firearm;

(b) Cartridges are in a clip that is locked in place in the firearm;

(c) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver;

(d) There is a cartridge in the tube or magazine that is inserted in the action; or

(e) There is a ball in the barrel and the firearm is capped or primed if the firearm is a muzzle loader.

(15) "Machine gun" means any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

(16) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

(17) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

(18) "Pistol" means any firearm with a barrel less than sixteen inches in length, or is designed to be held and fired by the use of a single hand.

(19) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(20) "Sale" and "sell" mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

(21) "Serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any crime of violence;

(b) Any felony violation of the uniform controlled substances act, chapter 69.50 RCW, that is classified as a class B felony or that has a maximum term of imprisonment of at least ten years;

(c) Child molestation in the second degree;

(d) Incest when committed against a child under age fourteen;

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Drive-by shooting;

(j) Sexual exploitation;

(k) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(l) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(m) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under RCW 9.94A.030;

(n) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(o) Any felony offense in effect at any time prior to June 6, 1996, that is comparable to a serious offense, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious offense; or

(p) Any felony conviction under RCW 9.41.115.

(22) "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

(23) "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

(24) "Shotgun" means a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(25) "Transfer" means the intended delivery of a firearm to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans. "Transfer" does not include the delivery of a firearm owned or leased by an entity licensed or qualified to do business in the state of Washington to, or return of such a firearm by, any of that entity's employees or agents, defined to include volunteers participating

in an honor guard, for lawful purposes in the ordinary course of business.

(26) "Unlicensed person" means any person who is not a licensed dealer under this chapter.

(27) "Curio or relic" has the same meaning as provided in 27 C.F.R. Sec. 478.11.

(28) "Licensed collector" means a person who is federally licensed under 18 U.S.C. Sec. 923(b).

Sec. 74. RCW 9.41.113 and 2015 c 1 s 3 are each amended to read as follows:

(1) All firearm sales or transfers, in whole or part in this state including without limitation a sale or transfer where either the purchaser or seller or transferee or transferor is in Washington, shall be subject to background checks unless specifically exempted by state or federal law. The background check requirement applies to all sales or transfers including, but not limited to, sales and transfers through a licensed dealer, at gun shows, online, and between unlicensed persons.

(2) No person shall sell or transfer a firearm unless:

(a) The person is a licensed dealer;

(b) The purchaser or transferee is a licensed dealer; or

(c) The requirements of subsection (3) of this section are met.

(3) Where neither party to a prospective firearms transaction is a licensed dealer, the parties to the transaction shall complete the sale or transfer through a licensed dealer as follows:

(a) The seller or transferor shall deliver the firearm to a licensed dealer to process the sale or transfer as if it is selling or transferring the firearm from its inventory to the purchaser or transferee, except that the unlicensed seller or transferor may remove the firearm from the business premises of the licensed dealer while the background check is being conducted. If the seller or transferor removes the firearm from the business premises of the licensed dealer while the background check is being conducted, the purchaser or transferee and the seller or transferor shall return to the business premises of the licensed dealer and the seller or transferor shall again deliver the firearm to the licensed dealer prior to completing the sale or transfer.

(b) Except as provided in (a) of this subsection, the licensed dealer shall comply with all requirements of federal and state law that would apply if the licensed dealer were selling or transferring the firearm from its inventory to the purchaser or transferee, including but not limited to conducting a background check on the prospective purchaser or transferee in accordance with federal and state law requirements and fulfilling all federal and state recordkeeping requirements.

(c) The purchaser or transferee must complete, sign, and submit all federal, state, and local forms necessary to process the required background check to the licensed dealer conducting the background check.

(d) If the results of the background check indicate that the purchaser or transferee is ineligible to possess a firearm, then the licensed dealer shall return the firearm to the seller or transferor.

(e) The licensed dealer may charge a fee that reflects the fair market value of the administrative costs and efforts incurred by the licensed dealer for facilitating the sale or transfer of the firearm.

(4) This section does not apply to:

(a) A transfer between immediate family members, which for this subsection shall be limited to spouses, domestic partners, parents, parents-in-law, children, siblings, siblings-in-law, grandparents, grandchildren, nieces, nephews, first cousins, aunts, and uncles, that is a bona fide gift or loan;

(b) The sale or transfer of an antique firearm;

(c) A temporary transfer of possession of a firearm if such transfer is necessary to prevent imminent death or great bodily harm to the person to whom the firearm is transferred if:

(i) The temporary transfer only lasts as long as immediately necessary to prevent such imminent death or great bodily harm; and

(ii) The person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law;

(d) A temporary transfer of possession of a firearm if: (i) The transfer is intended to prevent suicide or self-inflicted great bodily harm; (ii) the transfer lasts only as long as reasonably necessary to prevent death or great bodily harm; and (iii) the firearm is not utilized by the transferee for any purpose for the duration of the temporary transfer;

(e) Any law enforcement or corrections agency and, to the extent the person is acting within the course and scope of his or her employment or official duties, any law enforcement or corrections officer, United States marshal, member of the armed forces of the United States or the national guard, or federal official;

~~((e))~~ (f) A federally licensed gunsmith who receives a firearm solely for the purposes of service or repair, or the return of the firearm to its owner by the federally licensed gunsmith;

~~((f))~~ (g) The temporary transfer of a firearm (i) between spouses or domestic partners; (ii) if the temporary transfer occurs, and the firearm is kept at all times, at an established shooting range authorized by the governing body of the jurisdiction in which such range is located; (iii) if the temporary transfer occurs and the transferee's possession of the firearm is exclusively at a lawful organized competition involving the use of a firearm, or while participating in or practicing for a performance by an organized group that uses firearms as a part of the performance; (iv) to a person who is under eighteen years of age for lawful hunting, sporting, or educational purposes while under the direct supervision and control of a responsible adult who is not prohibited from possessing firearms; ~~((g))~~ (v) under circumstances in which the transferee and the firearm remain in the presence of the transferor; or (vi) while hunting if the hunting is legal in all places where the person to whom the firearm is transferred possesses the firearm and the person to whom the firearm is transferred has completed all training and holds all licenses or permits required for such hunting, provided that any temporary transfer allowed by this subsection is permitted only if the person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law; ~~((g))~~

~~((g))~~ (h) A person who (i) acquired a firearm other than a pistol by operation of law upon the death of the former owner of the firearm or (ii) acquired a pistol by operation of law upon the death of the former owner of the pistol within the preceding sixty days. At the end of the sixty-day period, the person must either have lawfully transferred the pistol or must have contacted the department of licensing to notify the department that he or she has possession of the pistol and intends to retain possession of the pistol, in compliance with all federal and state laws; or (i) A sale or transfer when the purchaser or transferee is a licensed collector and the firearm being sold or transferred is a curio or relic."

Correct the title.

BERNARD DEAN, Chief Clerk

MOTION

Senator Pedersen moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5552.

Senators Pedersen, Padden and Walsh spoke in favor of the motion.

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

The President declared the question before the Senate to be the motion by Senator Pedersen that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5552.

The motion by Senator Pedersen carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5552 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5552, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5552, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Excused: Senator Chase

ENGROSSED SUBSTITUTE SENATE BILL NO. 5552, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 7, 2017

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5808 with the following amendment(s): 5808-S.E AMH JUDI H2492.1

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 75. The legislature finds that agriculture plays a substantial role in the economy, culture, and history of Washington state. As an increasing number of Washington's citizens are removed from day-to-day agricultural experiences, agritourism provides a valuable opportunity for the public to interact with, experience, and understand agriculture. In addition, agritourism opportunities provide valuable options for farmers and ranchers and rural residents to maintain their operations and continue a traditional economic development opportunity in rural areas. Inherent risks exist on farms and ranches, some of which cannot be reasonably eliminated. Uncertainty of potential liability associated with inherent risks has a negative impact on the establishment and success of agritourism operations.

NEW SECTION. Sec. 76. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agritourism activity" means any activity carried out on a farm or ranch whose primary business activity is agriculture or ranching and that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities including, but not limited to: Farming; ranching; historic, cultural, and on-site educational programs;

recreational farming programs that may include on-site hospitality services; guided and self-guided tours; petting zoos; farm festivals; corn mazes; harvest-your-own operations; hayrides; barn parties; horseback riding; fishing; and camping.

(2) "Agritourism professional" means any person in the business of providing one or more agritourism activities, whether or not for compensation.

(3) "Inherent risks of agritourism activity" means those dangers or conditions that are an integral part of an agritourism activity including certain hazards, such as surface and subsurface conditions, natural conditions of land, vegetation, waters, the behavior of wild or domestic animals, and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity, unless the participant acting in a negligent manner is a minor or is under the influence of alcohol or drugs.

(4) "Participant" means any person, other than the agritourism professional, who engages in an agritourism activity.

(5) "Person" means an individual, fiduciary, firm, association, partnership, limited liability company, corporation, unit of government, or any other group acting as a unit.

NEW SECTION. Sec. 77. (1)(a) Except as provided in subsection (2) of this section, an agritourism professional is not liable for injury, loss, damage, or death of a participant resulting exclusively from any of the inherent risks of agritourism activities.

(b) Except as provided in subsection (2) of this section, no participant or participant's representative may pursue an action or recover from an agritourism professional for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism activities.

(c) In any action for damages against an agritourism professional for agritourism activity, the agritourism professional must plead the affirmative defense of assumption of the risk of agritourism activity by the participant.

(2) Nothing in subsection (1) of this section prevents or limits the liability of an agritourism professional if the agritourism professional does any one or more of the following:

(a) Commits an act or omission that is grossly negligent or constitutes willful or wanton disregard for the safety of the participant and that act or omission proximately causes injury, damage, or death to the participant.

(b) Has actual knowledge or reasonably should have known of an existing dangerous condition on the land, facilities, or equipment used in the activity or the dangerous propensity of a particular animal used in such an activity and does not make the danger known to the participant and the danger proximately causes injury, damage, or death to the participant.

(c) Permits minor participants to use facilities or engage in agritourism activities that are not reasonably appropriate for their age. This provision shall not be interpreted to relieve a parent or guardian of a minor participant of the duty to reasonably supervise the minor's participation in agritourism activities, including assessing whether the minor's participation in an agritourism activity is reasonably appropriate for his or her age.

(d) Knowingly permits participants to use facilities or engage in agritourism activities while under the influence of alcohol or drugs.

(e) Fails to warn participants as required by section 4 of this act.

(3) Any limitation on legal liability afforded by this section to an agritourism professional is in addition to any other limitations of legal liability otherwise provided by law.

NEW SECTION. Sec. 78. (1) Every agritourism professional must post and maintain signs that contain the warning notice specified in subsection (2) of this section. The sign must be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The warning notice must consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, must contain in clearly readable print the warning notice specified in subsection (2) of this section.

(2) The sign and contracts described in subsection (1) of this section must contain the following notice of warning:

"WARNING

Under Washington state law, there is limited liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such an injury or death results exclusively from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. We are required to ensure that in any activity involving minor children, only age-appropriate access to activities, equipment, and animals is permitted. You are assuming the risk of participating in this agritourism activity."

(3) Failure to comply with the requirements concerning warning signs and notices provided in this section prohibits an agritourism professional from invoking the privilege of immunity provided by this section and sections 1 through 3 of this act and may be introduced as evidence in any claim for damages.

NEW SECTION. Sec. 79. Sections 1 through 4 of this act are each added to chapter 4.24 RCW."

Correct the title.

BERNARD DEAN, Chief Clerk

MOTION

Senator Warnick moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5808.

Senator Warnick spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Warnick that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5808.

The motion by Senator Warnick carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5808 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5808, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5808, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille,

Ericksen, Fain, Fortunato, Frockt, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Pearson, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senators Hasegawa, Kuderer and Palumbo

Excused: Senator Chase

ENGROSSED SUBSTITUTE SENATE BILL NO. 5808, as amended by the House, 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.

MESSAGES FROM THE HOUSE

April 17, 2017

MR. PRESIDENT:

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

SUBSTITUTE HOUSE BILL NO. 1314,
SECOND SUBSTITUTE HOUSE BILL NO. 1402,
SUBSTITUTE HOUSE BILL NO. 1464,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 17, 2017

MR. PRESIDENT:

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

SUBSTITUTE HOUSE BILL NO. 1641,
SUBSTITUTE HOUSE BILL NO. 1867,
ENGROSSED HOUSE BILL NO. 2005,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2126,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 17, 2017

MR. PRESIDENT:

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

SUBSTITUTE HOUSE BILL NO. 1079,
SECOND SUBSTITUTE HOUSE BILL NO. 1170,
SUBSTITUTE HOUSE BILL NO. 1279,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL
NO. 1358,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1594,
ENGROSSED HOUSE BILL NO. 1595,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 17, 2017

MR. PRESIDENT:

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

SUBSTITUTE HOUSE BILL NO. 1038,
SUBSTITUTE HOUSE BILL NO. 1055,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1115,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1136,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.
1163,
SUBSTITUTE HOUSE BILL NO. 1183,
SUBSTITUTE HOUSE BILL NO. 1184,
SUBSTITUTE HOUSE BILL NO. 1200,

NINETY NINTH DAY, APRIL 17, 2017

2017 REGULAR SESSION

SUBSTITUTE HOUSE BILL NO. 1273,
 SUBSTITUTE HOUSE BILL NO. 1275,
 SUBSTITUTE HOUSE BILL NO. 1467,
 SUBSTITUTE HOUSE BILL NO. 1605,
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.
 1612,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MESSAGE FROM THE HOUSE

April 11, 2017

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 5834 with the following amendment(s): 5834.E AMH COG H2407.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 80. A new section is added to chapter 66.24 RCW to read as follows:

(1) There shall be a bonded and nonbonded spirits warehouse license for spirits warehouses that authorizes the storage and handling of bonded bulk spirits and, to the extent allowed under federal law and under rules adopted by the board, bottled spirits and the storage of tax-paid spirits not in bond. Under this license a licensee may maintain a warehouse for the storage of federally authorized spirits off the premises of a distillery for distillers qualified under RCW 66.24.140, 66.24.145, or 66.24.150, or entities otherwise licensed and permitted in this state, or bulk spirits transferred in bond from out-of-state distilleries and, to the extent allowed by federal law and under rules adopted by the board, bottled spirits, if the storage of the federally authorized spirits transferred into the state is for storage only and not for processing or bottling in the bonded spirits warehouse. A licensee must designate clearly in its license application to the board the sections of the warehouse that are bonded and nonbonded with a physical separation between such spaces. Only spirits in bond may be stored in the bonded sections of the warehouse and only spirits that have been removed from bond tax-paid may be stored in nonbonded areas of the warehouse. The proprietor of the warehouse must maintain a plan for tracking spirits being stored in the warehouse to ensure compliance with relevant bonding and tax obligations.

(2) The board must adopt similar qualifications for a spirits warehouse licensed under this section as required for obtaining a distillery license as specified in RCW 66.24.140, 66.24.145, and 66.24.150. A licensee must be a sole proprietor, a partnership, a limited liability company, a corporation, a port authority, a city, a county, or any other public entity or subdivision of the state that elects to license a bonded spirits warehouse as an agricultural or economic development activity. One or more domestic distilleries or manufacturers may operate as a partnership, corporation, business co-op, cotenant, or agricultural co-op for the purpose of obtaining a bonded and nonbonded spirits warehouse license or storing spirits in the facility under a common management and oversight agreement free of charge or for a fee.

(3) Spirits in bond may be removed from a bonded spirits warehouse for the purpose of being:

- (a) Exported from the state;
- (b) Returned to a distillery or spirits warehouse licensed under this section; or
- (c) Transferred to a distillery, spirits warehouse licensed under this section, or a licensed bottling or packaging facility.

(4) Bottled spirits that are being removed from a spirits warehouse licensed under this section tax-paid may be:

- (a) Transferred back to the distillery that produced them;
- (b) Shipped to a licensed Washington spirits distributor;
- (c) Shipped to a licensed Washington spirits retailer;
- (d) Exported from the state; or
- (e) Removed for direct shipping to a consumer pursuant to RCW 66.20.410.

(5) The ownership and operation of a spirits warehouse facility licensed under this section may be by a person or entity other than those described in this section acting in a commercial warehouse management position under contract for such licensed persons or entities on their behalf.

(6) A license applicant must demonstrate the right to have warehoused spirits under a valid federal permit held by a licensee who maintains ownership and title to the spirits while they are in storage in the spirits warehouse licensed under this section. The fee for this license is one hundred dollars per year.

(7) The board must adopt rules requiring a spirits warehouse licensed under this section to be physically secure, zoned for the intended use, and physically separated from any other use.

(8) The operator or licensee operating a spirits warehouse licensed under this section must submit to the board a monthly report of movement of spirits to and from a warehouse licensed under this section in a form prescribed by the board. The board may adopt other necessary procedures by which such warehouses are licensed and regulated.

(9) The board may require a single annual permit valid for a full calendar year issued to each licensee or entity warehousing spirits under this section that allows for unlimited transfers to and from such warehouse within that year. The fee for this permit is one hundred dollars per year.

(10) Handling of bottled spirits that have been removed from bond tax-paid and that reside in the spirits warehouse licensed under this section includes packaging and repackaging services; bottle labeling services; creating baskets or variety packs that may or may not include nonspirits products; and picking, packing, and shipping spirits orders on behalf of a licensed distillery direct to consumers in accordance with RCW 66.20.410. A distillery contracting with the operator of a spirits warehouse licensed under this section for handling bottled spirits must comply with all applicable state and federal laws and is responsible for financial transactions in direct to consumer shipping activities.

Sec. 81. RCW 66.24.640 and 2012 c 2 s 206 are each amended to read as follows:

Any distiller licensed under this title may act as a retailer and/or distributor to retailers selling for consumption on or off the licensed premises of spirits of its own production, and any manufacturer, importer, or bottler of spirits holding a certificate of approval may act as a distributor of spirits it is entitled to import into the state under such certificate. The board must by rule provide for issuance of certificates of approval to spirits suppliers. An industry member operating as a distributor and/or retailer under this section must comply with the applicable laws and rules relating to distributors and/or retailers, except that an industry member operating as a distributor under this section may maintain a warehouse off the distillery premises for the distribution of bottled spirits of its own production to spirits retailers within the state and for bottled foreign-made spirits that such distillery is entitled to distribute under this title, if the warehouse is within the United States and has been approved by the board."

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Baumgartner moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5834.

Senators Baumgartner and Liias spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Baumgartner that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5834.

The motion by Senator Baumgartner carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5834 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5834, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5834, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Baumgartner, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille,

Ericksen, Fain, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Honeyford, Hunt, Keiser, King, Kuderer, Liias, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Palumbo, Pedersen, Ranker, Rivers, Rolfes, Rossi, Saldaña, Schoesler, Sheldon, Short, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson and Zeiger

Voting nay: Senator Pearson

Excused: Senator Chase

ENGROSSED SENATE BILL NO. 5834, as amended by the House, 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 4:23 p.m., on motion of Senator Fain, the Senate adjourned until 10:00 o'clock a.m. Tuesday, April 18, 2017.

CYRUS HABIB, President of the Senate

HUNTER G. GOODMAN, Secretary of the Senate